



# 11th Circuit *Historical News*

Volume XV, Number 2

<https://sites.google.com/site/circuit11history>

Summer 2018

## Judge Joseph Woodrow Hatchett A Florida legend in the fight for equality and justice

By Rashad A. Green

Over the course of nearly 60 years in the practice of law, Joseph Woodrow Hatchett built a legacy that will influence and inspire many generations to come. A Florida civil rights hero, Hatchett is a man of great courage, determination and heroism who has spent much of his adult life dedicated to the fight for social justice, freedom and equality for all.

Hatchett achieved what was considered impossible at the time. He became the first African-American to represent the Department of Justice in



the Deep South, and the first to serve as a federal judicial officer in the South. He was the first African-American appointed to the Florida Supreme Court, and, to this day, remains the only African-American to win a statewide election in  
*See "Hatchett," page 20*

The official portrait of former United States Chief Circuit Judge Joseph W. Hatchett was presented to the Eleventh Circuit Historical Society on May 17, 2002, at the United States Courthouse in Tallahassee. It now hangs in the Elbert P. Tuttle Courthouse in Atlanta. (Simmie Knox, artist)

**About the author:** *Rashad A. Green is a partner at the law firm of Fernandez Green, LLP in Tampa, Florida. His practice is focused in the areas of criminal defense, civil rights and appellate law. Green, a native of Tallahassee, Florida, is the son of Hatchett's eldest daughter, Cheryl. Green and his wife, Meagan, have one son, Jackson Woodrow Green, who was gifted the middle name of his great-grandfather.*



## A forgotten story: The William Augustus Bootle Federal Building

By Stuart E. Walker and William H. Larsen

By January 1907, construction at the new federal building was in full swing. Following the daily progress, Macon's local newspaper asked: "Do you know where is the busiest place in town from seven in the morning to four in the afternoon?"<sup>1</sup> The answer: "It is where the marble-cutters of the Government building are at work under the shed in the yard in the rear of the building."<sup>2</sup> The workforce, according to the newspaper, consisted

*See "A Forgotten Story," page 28*

### **Authors' note:**

**This is the second part of a two-part series.** The first part covered the history of Macon's federal buildings from the birth of the federal judiciary in Macon (1880) until the beginning of the construction of our current courthouse (1905). Part II picks the story up there, recounting a murder at the construction site that led to a decision by the U.S. Supreme Court and then following the story through the completion of the courthouse (1908). All photos are provided by the authors, unless indicated otherwise.

# MESSAGE FROM THE PRESIDENT

## Collegiality makes 11<sup>th</sup> Circuit special

This is my first letter as president of the Historical Society. I am honored to serve in this role. Much is owed to Leonard Gilbert, my predecessor, who tirelessly and wisely led this organization. Thank you, Leonard. We will miss your steady hand. I also thank the officers and trustees of the society for their continuing, unwavering commitment to serve the court.

Our circuit has welcomed four new judges confirmed by the U.S. Senate in the first half of this year: Judge Elizabeth "Lisa" Branch of the Eleventh Circuit, Judge Michael Lawrence Brown of the Northern District of Georgia, Judge Tilman Eugene "Tripp" Self III of the Middle District of Georgia, and Judge Annemarie Carney Axon of the Northern District of Alabama.

In July and August, five additional judges were also welcomed by our circuit upon their confirmations by the U.S. Senate: Judge Britt Cagle Grant of the Eleventh Circuit, Judge Emily Coody Marks of the Middle District of Alabama, Judge Jeffrey Uhlman Beaverstock and Judge Terry Fitzgerald Moorer both of the Southern District of Alabama, and Judge R. Stan Baker of the Southern District of Georgia.

They have all hit the ground running after filling vacancies sorely needing to be filled.

The arrival of new judges is always a joyful occasion for a court, and not just because it helps to spread the workload (although in itself this is likely a substantial source of joy). There is a much more important reason for joy: collegiality. I write you today in my first Message from the President to highlight and celebrate the collegiality of the Eleventh Circuit and the courts within, which is essential to their work and to the health of our republic.

Collegiality in any profession is not to be taken for granted. But it especially may not be taken for granted in the federal courts, where judges routinely issue



Halsey G. Knapp, Jr., is the new president of the Historical Society of the U.S. Courts in the Eleventh Circuit.

opinions on matters that the public deems to be inherently partisan in nature. Recently, public dialogue about the nomination and confirmation of judges might give the impression that the judiciary is a political branch of government, accountable primarily to partisan interests. One need only glance at news coverage of the process to replace Supreme Court Justice Anthony Kennedy to appreciate the intensity of this narrative.

Of course, the idea held by many that courts constitute a third political branch runs counter to the ideal of judicial independence embedded in our Constitution. Alexander Hamilton wrote: "The courts must declare the sense of the law; and if they should be disposed to exercise WILL instead of JUDGMENT, the consequence would equally be

the substitution of their pleasure to that of the legislative body."<sup>1</sup> In other words, we might as well have "no judges distinct from" the legislature if judges are to have no different aims.<sup>2</sup> The judiciary must be different. Our outgoing president sent a message to this society just before the presidential election in 2016 emphasizing this point and quoting the late Richard Arnold of the Eighth Circuit: "There has to be a safe place."<sup>3</sup>

This is not to say, of course, that courts do not directly have a hand in some of the most important political events of our time. They necessarily do. Judge Elbert Tuttle once mused in an interview that he originally thought his appointment to the former Fifth Circuit would allow him to "retir[e] to a quiet life on the court."<sup>4</sup> But his appointment followed the Supreme Court's 1954 decision in *Brown v. Board of Education* by only a couple months, and his legacy grew in part from what observers perceived as courageous and unpopular decisions he made in *Brown's* wake. Said Judge Tuttle of his own application of precedent, however, "I don't know whether we ought to be recognized for doing something naturally."<sup>5</sup>

Judge Tuttle's use of "we" is as instructive as his refusal to take credit for what others branded activism. Collegiality is the glue that holds our courts together despite pressure from the outside world to toe a different line. It is an essential respect our judges have for their colleagues that arises from the shared understanding that all are on the same mission to uphold the rule of law — together. This shared understanding, in turn, is built on trust that colleagues are committed to faithful application of precedent despite individual disagreements. Fortunately for us, the Eleventh Circuit has a proud tradition of collegiality. It isn't clear that every other circuit is as fortunate.

One of the purposes of this society is to foster public appreciation of the federal court system, which I believe

includes advocacy on behalf of this essential and redeeming collegiality in our courts. As a public, we must never forget how much we benefit from courts that do not see themselves as yet another forum in which a polarized political climate divides everyone neatly into teams.

1 The Federalist No. 78 (Alexander Hamilton), available at [http://avalon.law.yale.edu/18th\\_century/fed78.asp](http://avalon.law.yale.edu/18th_century/fed78.asp).

2 *Id.*

3 Leonard H. Gilbert, "The Importance of Civic Education," 11th Circuit Historical News, Vol. XIII, No. 3, Winter 2016, available at <https://sites.google.com/site/circuit11history/2016-newsletters>.

4 Ronald Smothers, "Atlanta Journal; Granite to Honor What Words Built," New York Times (June 11, 1990), <https://www.nytimes.com/1990/06/11/us/atlanta-journal-granite-to-honor-what-words-built.html>

5 *Id.*



## SHARE YOUR NEWS!

Submit items for publication in the 11th Circuit Historical News to Wanda Lamar, executive director of the Society. (email: [wanda\\_lamar@ca11.uscourts.gov](mailto:wanda_lamar@ca11.uscourts.gov)). Historical articles on the federal courts and judges within the Eleventh Circuit will be considered, as well as investitures, courthouse dedications, portrait presentations, memorial ceremonies and oral history programs.

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# The 2018 Eleventh Circuit Judicial Conference

By Katherine E. Giddings, Historical Society Florida Trustee

The 2018 United States Court of Appeals Eleventh Circuit Judicial Conference was nothing short of amazing. Held May 2-5 at the beautiful Sawgrass Marriott Convention Center in Ponte Vedra Beach, Florida, the conference was the 25th Judicial Conference held by the Eleventh Circuit.

This year's conference was sponsored by the Northern District of Florida and planned by an outstanding committee led by the Hon. Ed Carnes, chief judge of the Eleventh Circuit, and the Hon. M. Casey Rodgers, conference chair and chief judge of the Northern District of Florida. Technology was featured prominently at the conference, ranging from the first ever Eleventh Circuit conference "App" to the dazzling presentation on "Seeing into the Future: Artificial Intelligence, Autonomous Vehicles, and More."

The aggressive agenda attracted the most attendees ever, with 177 federal judges, 338 attorneys and 213 spouses joining in the conference meetings, presentations, luncheons, dinners and receptions. The Presentation of Colors and Pledge of Allegiance were led by the Allen D. Nease Navy Junior Reserve Officers Training Corps Color Guard. Dr. Leo E. Day helped open the conference by singing the national anthem, followed by "America the Beautiful" in at least five other languages (most of us had chills when listening to his renditions of these songs). Judge Carnes gave opening remarks, introduced new judicial officers and honored recently deceased judges. Judge Rodgers served as the perfect host, providing remarks throughout the conference and ensuring the sessions and events were flawless.

Circuit Judge Joel F. Dubina presented American Inns of Court Awards to Senior Circuit Judge Peter T. Fay and Professor John L. Carroll. Talbot "Sandy" D'Alemberte gave a "Welcome to Florida" opening presentation that was both informative and hilarious — detailing why Florida is

both "strange" and "geographically challenged."

The conference sessions then began, which — seriously — often filled attendees with awe. Conference seminar presentation titles give a flavor for the fast-paced, attention-grabbing topics: "The Science and Legal Implications of Memory Mapping, Modeling, and Decoding" (Professors Nita A. Farahany and Jack L. Gallant); "Dark Web" (Professor Mark Lanterman); "e-Discovery" (William F. Hamilton and Maura R. Grossman); and "Seeing into the Future: Artificial Intelligence, Autonomous Vehicles, and More" (Steve Brown).

In addition to the technology presentations, breakout sessions were held in which social media and technology ethics and evidentiary issues were discussed. The last presentation was "A Conversation with Supreme Court Justice Clarence Thomas." As a special treat, Justice Thomas — who attended the entire conference — stopped into the breakout session rooms, where he graciously participated in informal question/answer sessions with the attendees. This provided an opportunity for an open and frank discussion with a Supreme Court justice rarely experienced by practitioners.

The educational opportunities did not stop there. During the first luncheon, Tony Buettner talked about "Blue Zones — Lessons for Living Longer" (for the rest of the conference, everyone was conscious of what they were eating!). During the second luncheon, the three attorneys who represented the Duke lacrosse players (James P. Cooney, III, Joseph G. Cheshire and Wade M. Smith) gave a presentation that was both educational and entertaining, and strongly reinforced the need to ensure justice for all.

Seminar presentation facilitators included (in order of facilitation roles): Judge Carnes, Judge Rodgers,

*continued, next page*



## **About the author**

*Katherine "Kathi" E. Giddings is a Florida trustee on the Eleventh Circuit Court of Appeals Historical Society. She is Board Certified by The Florida Bar in Appellate Law and is deputy chair of Akerman LLP's National Litigation Practice Group.*

# Report to the Eleventh Circuit Judicial Conference

May 3, 2018

Good morning.

I am Leonard Gilbert of Tampa, Florida. I have had the honor and privilege of serving as president of the Eleventh Circuit Historical Society since the Judicial Conference in Savannah, Georgia, in 2013. It has been a wonderful experience, and I appreciate very much the opportunity to have served. I also want to express the appreciation of the society to all of you here today who are members and who have supported the Historical Society in so many different ways.

My role this morning is to report briefly on the activities of the society during the past five years. First, I would like to acknowledge the support of the judges of the courts



LEONARD H. GILBERT

of the Eleventh Circuit, all of whom have been so helpful. I particularly want to thank Chief Judge Ed Carnes, who served as honorary chairman of the Historical Society and who has been a great supporter of our work. I also want to thank the chief, as well as Chief Judge Casey Rodgers, for providing me with the opportunity to make this report to you this morning. It is important to recognize Circuit Executive James Gerstenlauer and his staff and to thank them for their assistance and support throughout the years. Finally, I want to acknowledge and thank my firm, Holland & Knight, for allowing me to invest the time on behalf of the society.

*continued, next page*



## ***The 2018 Eleventh Circuit Judicial Conference, continued***

Scott A. Remington, District Judge Madeline H. Haikala, Wendy B. Crew, Jennifer R. Egbe, District Judge Marcia M. Howard, Magistrate Judge Gary R. Jones, Cecily M. Parker, Circuit Judge Jill A. Pryor, Amanda S. Bersinger, Ashley F. Cummings, Chief Bankruptcy Judge Karen K. Specie, Philip A. Bates, Thomas M. Findley, Jessica Jo Lyublanovits and Dean Peter B. "Bo" Rutledge.

The Nick DeCalis Trio provided entertainment during the reception. Dinner entertainment featured "A Little Night Music," a spirited musicale of popular, show, jazz, classical and theater songs. The University of North Florida Faculty Brass Quintet provided a "Musical Prelude" at the beginning of the conference.

The Eleventh Circuit Historical Society held its meeting on Thursday afternoon, May 3, with numerous members attending. The meeting was led by longtime society President Leonard H. Gilbert, at which the members were treated to a slide presentation by Circuit Judge Frank M. Hull and Norman E. Zoller, featuring now-deceased Judge Phyllis A. Kravitch's significant donation to the Eleventh Circuit of her personal collection of paintings —

which now hang in the Tuttle Building. Leonard Gilbert's outstanding service was recognized when he relinquished his position as president to Halsey G. Knapp, Jr. — to whom we all wish well in his new role.

An optional program was held on Saturday, May 5, featuring a Young Lawyers Roundtable with the Judiciary, Discussions with Justice Clarence Thomas and a Bar Admissions Ceremony. Facilitators included: Magistrate Judge Elizabeth M. Timothy, Cecily M. Parker, Frederick V. Longmire and Matthew A. Fitzgerald.

As noted by Judge Carnes at the beginning of the conference, 28 USC § 333 authorizes the chief judge of each circuit to summon biennially or annually the circuit, district and bankruptcy judges of the circuit to a conference at a time and place that the chief judge designates for the purpose of considering the business of the courts and advising means of improving the administration of justice within such circuit. Given the topics and attendance at the conference, Judge Carnes, Judge Rodgers and the conference Planning Committee certainly fulfilled that mission and more.



During the past five years, to improve our efficiency, we have established four standing committees: Membership, Gifts and Acquisitions, Publications, and Budget and Finance. Each committee has made a meaningful contribution. For example, our Membership Committee, led by Sid Stubbs of West Palm Beach, Florida, has enlisted a great many new members, individuals and law firms, thereby growing our membership substantially. Membership is the foundation of our organization, and the work of the Historical Society cannot be accomplished without its members and their financial support. Our Gifts and Acquisitions Committee, chaired by Barry Davidson, has been quietly busy. Through their efforts, we have obtained or are working on obtaining several important collections for the society. More about that later.

We are best known for our Eleventh Circuit Historical Society newsletter, and I thank our Publications Committee, chaired by Katherine Giddings, for its efforts. We also thank The Florida Bar, which has supported us by producing the newsletter. We are immensely grateful for their help. During the past five years, we have had two themes for the newsletter: historic federal courthouses in the Eleventh Circuit and profiles of judges. The courthouses of the Eleventh Circuit that we have featured in the newsletter are in Alabama: Birmingham, Decatur, Dothan, Florence, Mobile, Opelika and Selma; in Florida: Miami, Tallahassee, and Tampa; and in Georgia: Albany, Brunswick, Gainesville, Newnan and Rome. The judges whom we have been proud to profile include: Judges Gerald B. Tjoflat, Peter T. Fay, Paul H. Roney, and Phyllis A. Kravitch of the Eleventh Circuit, and Judge Thomas A. Clark, who is featured in the current [Spring 2018] issue. District Judges William Terrell Hodges and James Lawrence King of Florida have also been profiled.

One of the greatest pleasures of the society is the acceptance of judicial portraits on behalf of the Historical Society at presentation ceremonies. In recent years, we have been privileged to receive the portrait of Judge Joel Dubina, which was accepted by Trustee Reggie Hamner in 2014, and the portrait of Judge R. Lanier Anderson, which was accepted by me last year. We also assisted in the completion of the portrait for retired Judge Stanley Birch and currently are assisting in the portrait of Judge Tjoflat.

Oral histories are another important aspect of the work of the society. During the past years, we have facilitated the oral histories of Circuit Judges Joel Dubina, Peter Fay and Lanier Anderson.

The work of the Historical Society would not be possible without, first, the time and effort put forth by our officers and Board of Trustees and, second, the splendid aid and assistance of our executive director, Wanda Lamar. We greatly appreciate all that she has done for us and her continued efforts on behalf of the society.

For those of you who are in the audience who are not members of the society, whether directly or through your firm, shame on you! I encourage you to join. It is very important to the welfare of the court and the legal profession and the preservation of the court's history that as many of you as possible become members of the society and maintain your membership.

The only time the society meets in person is on the occasion of the Judicial Conference. Our last in-person meeting was in Point Clear, Alabama, in 2016. At that time, we were honored to have Judge Lanier Anderson favor us with a history of the Eleventh Circuit. At this meeting, Judge Frank Hull, together with Norman Zoller, the former circuit executive, will inform us on the gift to the society of the late Judge Phyllis Kravitch. Judge Kravitch left to the society a fabulous and generous gift of 47 artworks that hung in her Atlanta chamber's office. I invite you to our meeting this afternoon following the afternoon session of the conference, at which time you will hear more about the gift. We are indebted to Judge Kravitch for making this gift to the society and to Norman Zoller and Judge Hull, who will show slides and speak about this art gift at the society's meeting this afternoon at 4:15 p.m. When you visit the Elbert P. Tuttle Courthouse Building in Atlanta, you will also have an opportunity to see that artwork on display on the first floor, as well as other memorabilia which has been collected for the court.

Thank you for the opportunity in making this report and, again, thank you for the opportunity of allowing me to serve as president of the society.

Please enjoy the conference.



# Minutes of the Eleventh Circuit Historical Society Board of Trustees and membership meeting, May 3, 2018

The meeting was held at 4:10 p.m. on May 3, 2018, at the Sawgrass Marriott Hotel in Ponte Vedra Beach, Florida. Leonard H. Gilbert, president, presiding. A quorum was established with several members participating by conference telephone, and the meeting was called to order.

1. Chief Judge Ed Carnes offered his thanks and support.
2. The minutes from the Point Clear, Alabama, membership meeting on May 5, 2016, were approved.
3. Judge Frank M. Hull and Norman Zoller spoke to the meeting regarding Judge Phyllis Kravitch's gift to the society of her art collection. The collection is currently on loan and is displayed on the first floor of Tuttle Court of Appeals Building in Atlanta. Using Judge Kravitch's extensive art collection as a backdrop, Judge Hull and Norman Zoller retold the courageous story of Judge Kravitch, her love for the law, her tenacious pursuit of equal justice in the face of determined resistance and her appreciation for art. Judge Hull and Norman's presentation moved the audience. The Historical Society appreciated the hard work and love they invested in this project. President Gilbert thanked Judge Hull and Norman Zoller for their efforts. The PowerPoint is attached.
4. The budget was approved and the filing of an extension to file the IRS Form 990 acknowledged and confirmed.<sup>1</sup>
5. The nominating committee reported the changes in the society's leadership:

Secretary Halsey Knapp succeeding Leonard Gilbert as president. Outgoing Treasurer John Tatum succeeding Halsey Knapp

as secretary. Outgoing Trustee Jay Elmore succeeding John Tatum as treasurer.

The society expressed its appreciation to outgoing Alabama Trustees Reggie Hamner and Dawn Wiggins Hare, and to the outgoing Florida Trustees Tim Armstrong, Gilbert Feltel, Jim Rinaman and Sid Stubbs, and to the outgoing Georgia Trustee Jay Elmore.

These officers and this report were adopted and approved by the society. A copy of the report of new officers and trustees is attached to these minutes.

6. Reggie Hamner gave a report from the Alabama delegation.
7. Upon motion duly made, seconded and unanimously adopted, all the lawful acts of the officers and trustees since the last meeting were approved.
8. Incoming President Halsey Knapp thanked Leonard Gilbert for his tireless and effective service as the president of the Historical Society.
9. Having no further business, the meeting was adjourned.

As of the 3<sup>rd</sup> day of May 2018.

Halsey G. Knapp, Jr.  
Acting Secretary

John M. Tatum  
Secretary

<sup>i</sup> On July 18, 2018, the IRS Form 990 was mailed to the IRS.



# The Eleventh Circuit Historical Society, Inc. (2018 – 2020)



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# For 50-year members, much has changed

Hello! As an eminent member of the greatest generation, Chesterfield Smith used to say as he began remarks.

Today, I will follow the advice of one of our distinguished presidents, FDR: "Be brief, be sincere and be seated."

Of the 566 of us who were admitted, there are 388 of us living today; and I am honored to be the one chosen to make these remarks today to celebrate and honor our 50 years at the Bar.

1968 was a tumultuous time to enter the legal profession. In preparing for today, I found several references to 1968 as being the year that shattered America and/or the year that changed history.

Martin Luther King and Bobby Kennedy were assassinated. President Lyndon Johnson decided not to seek re-election, although not before laying the groundwork for the 1968 civil rights act known as the Fair Housing Act. Hubert Humphrey and Richard Nixon were the presidential candidates together with George Wallace.

On a lighter note, presaging the significance of television in our electoral process, Nixon appeared on "Laugh-In" to soften his somber image and pronounced "sock it to me." Little did he know that six years later we would do exactly that! Nixon won the election with less than 50 percent of the popular vote – 43.4 to be exact, signaling an outcome not unlike the current election. Wallace received 13.5 percent of the vote.

In Florida, Ed Gurney soundly defeated highly regarded former governor LeRoy Collins for the U.S. Senate – another chink in the Democratic Party dominance of



Barry Davidson was honored to be chosen to make remarks to celebrate and honor his fellow Florida Bar members' 50 years at the Bar. (Photo courtesy of The Florida Bar)

Florida – following the drastic reapportionment of the Florida Legislature and the demise of the Pork Chop Gang the year before. Claude Kirk continued as our first Republican governor. We also had a statewide teachers' strike – the first such strike in the country. Jacksonville became the biggest city in Florida by merging government with Duval County and extending the city limits to the Duval County line. Florida's first constitutional commission was created.

In world affairs, the Vietnam War raged with the commencement of the Tet Offensive, 24,500 military reservists were called up to bring the U.S. commitment to Vietnam to over one-half million soldiers – when we graduated from law school in 1968, a lot of us were increasingly conflicted about our military obligation to our country. To those of you who served, we salute you. And, our old pals, the North Koreans, captured the USS Pueblo, holding the crew virtually all of 1968.

Our world expanded dramatically in December when Apollo 8 became the first spacecraft to orbit the moon.

Popular happenings included the debut of the 747, release of the movie "2001" and learning about HAL – much later to rule our daily lives. "Hair" hit the stage just as we all began to wear our hair a bit longer – when we had hair! The Big Mac arrived and O.J. won the Heisman.

As we became one of the 10,000-plus 1968 Bar members – compared with 91,000 today [in good standing] – we entered a work world dramatically

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## **Editor's note**

*Historical Society Trustee Barry Davidson gave these remarks to a gathering of 160 people at the 50-year members' luncheon at The Florida Bar Annual Convention on June 15. Each 50-year member was presented a personalized silver plate to commemorate 50 years of service and membership.*

## **About the author**

*Barry R. Davidson is with the Miami office of Hunton Andrews Kurth and has tried cases throughout the state of Florida in his 50 years at the Bar.*

different than today. If we went to law school in Florida, we came from just five law schools – Stetson, UM, UF and FSU with its first graduating class and Florida A&M with its last. Our starting salaries were likely in the \$500 per month plus or minus range, but then gas was 30-odd cents a gallon and if you were careful you could get a nice pasta meal – no wine – for a little over a dollar.

Files were all paper and often kept by a single fastener on the upper left. Xerox machines were found in only a few offices, and carbon copies were still the norm. Pleadings were filed on 8½-by-14 size paper and by a runner who was often your most important liaison with the clerk's office. Your business day began with the mail, including orders, memos, title opinions, wills, contract drafts and, most importantly, checks from clients.

Facsimile machines were few. Telephones often had dials, and after the receptionist left for the day they rang from a master bell. Real estate titles were determined by reading abstracts, which in later years were useful as door stops or in some cases as booster chairs for your young children. Cases were tried often and generally to a jury, and judges encouraged young lawyers to talk to the jury after a verdict for input on their performance! Mediation was a word known only to labor lawyers.

Our practice is governed by the Florida Supreme Court, and the chief then was Millard Caldwell. Our Bar presidents were Marshall Criser and Mark Hulsey. The court system below was still a bit of a hodgepodge with circuit court, courts of record, justice of the peace courts and city courts, all elected – all of this not resolved until 1972. Lawyer advertising was forbidden, and the concept of specialization as in designation and board certification was years away. Marketing of any kind was discouraged. There were no best or super or elite lists – Martindale was the only place to find each other with an A rating a desired goal.

In so-called large firms in our then big cities (large being defined as 15 to 20), most of us worked in a particular area of the law; but in the smaller jurisdictions, most of us were generalists.

I enjoyed the opportunity to try cases in many of these smaller jurisdictions and well recall the deadly phrase – “Well, counsel, I am just a country lawyer.” CLE was available primarily from The Florida Bar and not mandatory.

Aspirational rules for pro bono and reporting were 25 years away, but I have no doubt we all did our part, whether it was for someone we knew or someone we learned about who needed help. Judges were generally very attuned to this particularly in smaller jurisdictions. As a former federal judge law clerk, I was on the list for the late judge Emmet Choate for pro bono defense – this long before public defender offices.

Our daily routine always included lunch out – generally with our colleagues. While fitness was still a strange word, some of us would try and eat healthy with a salad until the last person at the table ordered a rare cheeseburger! We all left work at 5 for a drink at the end of day and some fellowship. Professionalism was not an issue then, because senior lawyers and judges mentored behavior; and, if a brash young lawyer got out of line, he, or rarely she, heard about it promptly from appropriate sources. Our reputation was, and hopefully still is, our most important asset.

We did lack diversity in the profession, which is largely remedied today, although steps still need to be taken. We are a much more inclusive and supportive bar than we were 50 years ago, and our current leadership will keep us moving in that direction.

I pause to remind all of us how lucky we were to start when we did. Whether we were trial lawyers or real estate or T&E or criminal etc. – we got a great deal more hands-on experience than young lawyers today; and, frankly, most of our clients were much more appreciative of our efforts. And, our lives were certainly a bit quieter with no cell phones following us around 24 hours.

Today, many of us are retired, some are still working to some extent – after all, if you check the internet, 75 is the new 60 or 50 – depending on which supplement program you are on! I hope all of you have enjoyed your 50 years at the Bar and that some of you will enjoy more.

Last year, this speech was made by a really good pal of mine, John Devault, and I will shamelessly borrow from his concluding remarks by Harrison Tweed to the New York Bar:

“I have a high opinion of lawyers. With all their faults, they stack up well against those in every other occupation or profession. They are better to work with or play with or drink with than most other varieties of mankind.”



# Eleventh Circuit welcomes Judge Kevin C. Newsom to his 'dream job'

By Lindsey C Boney IV

"I believe that the law is objective and coherent and, with enough hard work, it's discernable and capable of fair and even-handed application." Those were the words of the Hon. Kevin C. Newsom upon his installation as an Eleventh Circuit judge during an investiture ceremony held at the Hugo Black Courthouse in Birmingham, Alabama, on Oct. 20, 2017. Chief Judge Ed Carnes presided over the ceremony.



With his wife, Deborah, at his side, the Hon. Kevin C. Newsom is sworn in by Judge Diarmuid O'Scannlain as an Eleventh Circuit judge during an investiture ceremony in October 2017. (Eleventh Circuit Court of Appeals)

The proceedings began with Judge Newsom's youngest son, Chapman, leading the assembled gallery in the Pledge of Allegiance. Judge Newsom's aunt, Dr. Carol Newsom, delivered the invocation. Girod Cole, who is in Judge Newsom's Sunday school class at Dawson Memorial Baptist Church, then sang an a cappella rendition of "A Mighty Fortress Is Our God."

Chief Judge Carnes opened the proceedings by introducing Judge Newsom's family, including his wife (Deborah Wilgus Newsom), his two school-aged sons (Marshall James and Chapman), his mother (Susan Bethea), his father (Michael Newsom), his parents-in-law (Jim and Liz Wilgus) and his aunt (Dr. Carol Newsom). Chief Judge Carnes continued with some brief remarks about the significance of Judge Newsom's appointment: For the first time in seven years, the Eleventh Circuit would have a full complement of 12 active judges. "In fact," Chief Judge Carnes noted, "some people might say that we were without the twelfth judge for so long we would have welcomed anybody with a law degree and a pulse." But he added: In Judge Newsom, the Eleventh Circuit got "so much more than those two basic requirements," and he "was worth the wait."

Indeed. As Chief Judge Carnes walked through Judge Newsom's career achievements, it was clear that Judge Newsom has achieved what Chief Judge Carnes called "excellence throughout his legal career." After graduating at the top of his class from Samford University, he graduated *magna cum laude* from Harvard Law School. He then moved to Portland, Oregon, to clerk for Judge Diarmuid O'Scannlain of the Ninth Circuit Court of Appeals before serving as a law clerk to U.S. Supreme Court Justice David Souter.

Judge Newsom served as Alabama's solicitor general for four years, during which he argued four cases in the Supreme Court and four times won the award for outstanding brief in the Supreme Court, given by the National Association of Attorneys General. He also spent 12 years in private practice. During those years, he was elected as a fellow in the American Academy of Appellate Lawyers, and the chief justice of the United States appointed him as one of three private practitioners to serve on the Advisory Committee on Appellate Rules, on which he served for six years.

Chief Judge Carnes also highlighted Judge Newsom's bipartisan support in the U.S. Senate — where he advanced through the Judiciary Committee by an "astounding" 18-2 margin — and the speed with which he was confirmed (i.e., only 85 days after his nomination).

Following Chief Judge Carnes's introduction of Judge Newsom, his family and his legal career, all three of

*continued, next page*

## About the author

Lindsey C Boney IV is a partner with Bradley Arant Boult Cummings in Birmingham, Alabama. He served as a law clerk to the Hon. William H. Pryor Jr. of the U.S. Court of Appeals for the 11th Circuit (2009-2010).

**Eleventh Circuit Welcomes Judge Kevin C. Newsom, from page 11**

Judge Newsom’s co-clerks from his clerkship with Judge O’Scannlain spoke. First up was Tom Ward, a deputy assistant attorney general in the Department of Justice Civil Division. Ward shared personal stories about their time in Portland, of Judge Newsom’s modesty, faith and loyal friendship that manifested during those years (and after) — and Deborah Newsom’s hospitality. Ward reminded Judge Newsom’s sons “what a special dad you have” — that he is “providing you a great model for how to be men when you grow up.” Judge Newsom, Ward closed, is “going to be a wonderful judge, and the United States is so lucky to have your service.”

Ward was followed by Jon Cohn, a partner at Sidley Austin in Washington, D.C., and a classmate of Judge Newsom’s at Harvard Law School. Cohn shared the perceptions that he formed in law school about Judge Newsom, whom he described as humble, organized, brilliant, principled and a lover of “Chick-fil-A and Dr Pepper.” And he recalled a story from their clerkship, when both of them were describing their “dream jobs” — and Judge Newsom relayed that his dream was to be a U.S. circuit court judge.

Finally, Mark Nomellini, a partner at Kirkland & Ellis in Chicago, shared two stories about Judge Newsom. The first story was that Judge Newsom was one of his first calls when he and his wife discovered that their daughter had been born with a severe congenital heart condition and that Judge Newsom had faithfully prayed for her. The second story was about Judge Newsom’s writing talent: a CEO friend reported that he still keeps in his office a brief that Judge Newsom, the lawyer, submitted to the court where he had earlier clerked.

Next came the show-stopper: Judge Newsom’s older son, Marshall James, spoke confidently about Judge Newsom, the dad. Marshall James spoke of his father’s commitment to both hard work and quality time with his sons, best evidenced by his early Saturday mornings to finish his work so that he can enjoy the rest of the day with his family.

Marshall James described his father as an encourager, with a positive outlook on life — so positive, in fact, that after witnessing the famed (or infamous, depending on your perspective) “Kick Six” football game between Auburn and Alabama in 2013, Judge Newsom, an avid Alabama fan, remarked, “That is probably the greatest ending to a football game you’ll ever see and we were there to witness it.” Marshall James was impressed, but he reported that their compatriot for the game — the Hon. William H. Pryor Jr. — was not. “Judge Pryor looked at my dad like he had a third eye and said, ‘What are you talking about?’ And once again, deafening silence.”

Marshall James told stories of family trips together, on which Judge Newsom joined his sons in daring exploits such as cliff diving in Croatia and swimming in the famous Bondi Icebergs pool in Australia. And he told of Judge Newsom’s love for challenging his boys in sports competitions ranging from the annual family 100-meter dash to pingpong. But Marshall James summed it up best in closing: “So, Dad, now it is my turn to say that I am proud of you.”

Greg Katsas, then of the White House Counsel’s Office (and now a judge on the U.S. Court of Appeals for the District of Columbia), had the unenviable task of following

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## Eleventh Circuit Welcomes Judge Kevin C. Newsom, from page 11

Marshall James, but he did so admirably by presenting Judge Newsom's commission on behalf of the president. Robert Luther, associate counsel to the president, then read a letter from the president, congratulating Judge Newsom on his confirmation.

Judge O'Scannlain then offered some brief remarks before administering the judicial oath. Judge O'Scannlain described how Judge Newsom was the first of his former law clerks to serve as a state solicitor general, the first of his former clerks to argue a case before the Supreme Court, the first of his former clerks to be appointed to the Appellate Rules Advisory Committee, and now the first of his clerks to be appointed as a U.S. circuit judge. Following the oath of office, Judge Newsom's wife, Deborah, and their sons presented Judge Newsom with his robe.

Finally, Judge Newsom spoke. He did not mince words: This is my "dream job," "I feel like I've hit the professional jackpot." Why? Because, he said, he loves the law. And the "surest evidence of that love is this: Among the first few cases that I've worked on during my tenure on the court have been a tax case, a bankruptcy case and an ERISA case, and if ever there was an unholy trinity, that's it." Laughter ensued. But then Judge Newsom went on to explain: "I believe that the law is objective and coherent and, with enough hard work, it's discernable and capable for fair and even-handed application. It's in striving to crack that code, to solve the puzzle, to find the right answer that I find the law's sacredness and selfishly one of the great joys of this job." He praised his chambers staff — his "little law firm up on the ninth floor, several of whom he plucked from his former law firm Bradley Arant. He also praised his colleagues on the court, who had unanimously in the days after his nomination — even before his confirmation — reached out to congratulate him and have exhibited the "collegiality [that] is a hallmark of this body."

And then — fittingly — Judge Newsom closed with personal thank-yous to his family: first to his wife, Deborah, for her willingness to sacrifice much for him to follow his dream, recognizing that it might not always have been her dream. And then to his boys, that this moment should "be a powerful visual reminder of the sermon that you have heard me preach a hundred times: 'Good old fashion hard work ... can cover over a multitude of intellectual shortcomings.' A lot of hard work mixed in with the occasional good break has netted me this day, my dream. So dream big, my boys, and work hard."

A reception followed in the atrium of the Robert Vance Building across the street. And a worthy celebration it was — at the good fortune of these United States, that we would nab such a great, worthy man as Judge Newsom into the country's service as a U.S. circuit judge for the Eleventh Circuit Court of Appeals.



Judge Newsom receives his robe from his sons, Marshall James and Chapman, and his wife, Deborah. (Eleventh Circuit Court of Appeals)



Judge Newsom said: "I feel like I've hit the professional jackpot."  
(Eleventh Circuit Court of Appeals)



Jonathan Cohn, Judge Diarmuid O'Scannlain, Judge Newsom and Thomas Ward. (Eleventh Circuit Court of Appeals)

# Endowed scholarship honors Judge Thomas A. Clark

By Gayle Sumner

Thomas A. Clark was an extraordinary individual. Having been born in 1920 in Atlanta, Georgia, and raised by his mother and older sister, he realized at an early age the value of an education.

He graduated from Boys High School, working as a young boy delivering newspapers in his neighborhood to help with expenses. Although it was during the Great Depression, he was somehow able to graduate from Washington & Lee University with a B.S. degree, working in a grocery store and several other jobs to help defray the cost of his college.

During World War II, he entered active duty in the U.S. Navy and was released as lieutenant commander after serving in the Southwest Pacific. After the war, he went to the University of Georgia Law School, graduating in 1949 with an LL.B. degree.

After leaving law school, he pursued a legal career that not only distinguished him in private law practice but also involved significant public service. He practiced law in Bainbridge and Americus, Georgia, where he served in the Georgia House of Representatives and was the Decatur County (Georgia) solicitor. He taught law at Georgia Southwestern College. Then, after relocating to Tampa, Florida, he practiced trial law for over 20 years.

In 1979, President Jimmy Carter appointed Thomas Clark to the U.S. Court of Appeals for the Fifth Circuit, based in New Orleans. In 1981, when the Fifth Circuit was split, he became a member of the newly established Eleventh Circuit Court of Appeals, headquartered in Atlanta. He served on the Eleventh Circuit as an active judge until 1991 and thereafter as a senior judge until



Judge Thomas Clark's portrait was presented to the U.S. Court of Appeals for the Eleventh Circuit in 1995. (Photo courtesy of Gayle Sumner)

retiring in 1999. It was my privilege to work for Judge Clark as his secretary/administrative assistant during his 18 years in Atlanta.

Judge Clark was sometimes referred to as "Papa Judge." He was that and more. I remember how he took every opportunity to lend a listening ear to anyone who needed to talk — and then would give them good, solid fatherly advice. Judge Clark was a great judge with a wonderful sense of humor, who was a good listener, a thoughtful counselor and a caring mentor to any and all who sought him. He treated as family not only his staff but court employees and everyone else with whom he had contact.

He was also available for anyone needing a helping hand. This caring attitude was also reflected in his legal opinions. While practicing law in Florida, Judge Clark was actively involved in the Florida

Commission for the Mentally Disabled, and

some of his opinions reveal his empathy for the ravaging effects of mental illness.

Judge Clark loved the law. As John Morris, one of his law clerks, once said: "In any case, he strove to understand two sometimes conflicting things – first, what the law said was the right answer, and second, what the impact of that answer would be on the human beings involved in the case."

Even though he wrote a good many dissents and was referred to as the "Great Dissenter," Judge Clark always respected the fact that another judge did not agree with him. Judge Phyllis Kravitch, one of Judge Clark's colleagues

*continued, next page*

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## Editor's note

An academic scholarship was recently established in memory of Judge Thomas A. Clark for the students of Berry College in Rome, Georgia. Gayle Sumner, Judge Clark's secretary, and her husband, Lem (both graduates of Berry), endowed the scholarship, which was awarded for the first time on April 6. It will be awarded annually to a student in the pre-law program, with preference for a student with a minor in legal studies.

## Endowed Scholarship Honors Judge Thomas A. Clark, from page 14

on the Eleventh Circuit, said: “He got along with everyone whether they agreed with him or not.” Upon Judge Clark’s passing in 2005, the circuit’s chief judge, J.L. Edmondson, remarked: “Never have I known a judge who was more humane than Tom Clark. Never did he lose sight of the fact that these cases with which we deal actually involve individual human beings.”

Judge Clark especially loved working with his law clerks. The bond that develops between a federal judge and his clerks is usually an extremely close one, and I know firsthand how much Judge Clark loved and respected each one of his 40 law clerks. If truth be known, the reverse was also true. When we had law clerk reunions over the years with the clerks, their spouses and children (whom he lovingly called “grandclerks”), you could tell he relished the time spent with them by his raised bushy eyebrows and the twinkle in his eyes.

I fondly remember our staff lunches — which we seemed to have on a regular basis. The Judge’s lovely wife, Betty Medlock Clark, would often meet the Judge, law clerks and staff for these “field trips.” We went to some great restaurants and oftentimes to a local diner like The Varsity, where we would all eat food that we knew wasn’t best for us! We had some wonderful outings. I also remember our “around the conference table” lunches in the Judge’s office whenever a former law clerk or a visiting judge would stop by the office, and the Judge would frequently send out to get some lunch or cookies for everyone. The Judge and Betty often invited the staff

and their spouses into their home for a meal. It was just like family — and somehow a lot of our activities revolved around food.

My husband, Lem, and I have always wanted to do something special to honor this man. A natural solution was to establish a scholarship in Judge Clark’s name at our alma mater — Berry College in Rome, Georgia. Judge and Betty visited Berry’s beautiful campus around 1996 and seemed very impressed with the academic and student-work programs. Lem and I felt it would have pleased Judge Clark and Betty to know that this scholarship would be available to help provide funding for students interested in the law profession.

On April 6, 2018, the first Judge Thomas A. Clark Endowed Scholarship recipient was revealed as Joshua M. Baker, a junior majoring in economics and finance, with a minor in legal studies. Lem and I attended the Annual Scholarship Night and were able to meet Josh. He is a fine all-around student. He is on the Dean’s List and All-Conference Academic Honor Roll. He works in financial services and is a computer lab assistant at Berry. He has also been active as a coach and referee of lacrosse teams in Gwinnett County and is an all-conference midfielder for the Berry varsity lacrosse team. In addition, he does volunteer work for several organizations. In the old days, I’m sure Judge Clark would be sitting him down and encouraging him to continue on to law school and then to apply for a law clerk position on the Eleventh Circuit.



Gayle and Lem Sumner with Josh Baker, the first recipient of the Judge Thomas A. Clark Endowed Scholarship. The academic scholarship was established in Judge Clark’s memory at the Sumners’ alma mater, Berry College in Rome, Georgia. (Photo courtesy of Gayle Sumner)



Judge Clark with his Atlanta staff, from left, Agatha Ellis, Gayle Sumner, Evelyn Hammond and Wanda Lamar, in 1999. (Photo courtesy of Gayle Sumner)

# Judge Godbold among five added to Hall of Fame

By Reginald "Reggie" T. Hamner

The Alabama Lawyers Hall of Fame 14th Annual Induction Ceremony was held on May 4, 2018, in the courtroom of the Supreme Court of Alabama. The inductees were the class of 2017.

The Hall of Fame inducts five lawyers each year, one of whom must have been deceased 100 years. A lawyer isn't eligible for consideration until two years following the lawyer's death. The Alabama State Bar receives nominations, and a selection committee recommends five nominees to the Board of Commissioners for induction each year. Initially, four members were to be inducted annually, with no provision that at least one should have been deceased 100 years.

Among the 2017 inductees was the first chief judge of the Eleventh Circuit, the late John Cooper Godbold. Judge Godbold has the distinction of being the only person to have served as chief judge of two U.S. Circuit Courts of Appeals.



Family members of the late Judge John Cooper Godbold attended the Hall of Fame ceremony, including his wife, Betty Godbold (seated), and, standing from left, her daughter Susan Godbold; a grandson, Joseph L. Hubbard; a son-in-law, J. Lister Hubbard; and her son, the Rev. Richard Godbold.

(Photo courtesy of Reggie Hamner)

Judge Godbold's wife, Betty Godbold, accepted a Hall of Fame plaque that is presented to the family of each inductee. These plaques are duplicates of the permanent plaques placed in the Hall of Fame, located in the Heflin-Torbert Judicial Building in Montgomery. Alabama State Bar President Augusta S. Dowd presented the induction plaques to the family members.

Timothy A. Lewis, the state law librarian and president of the Bench and Bar Historical Society, inducted Chief Judge Godbold. He recounted Judge Godbold's extensive legal career and noted the many honors bestowed during the life of this distinguished member of the Alabama State Bar.

Joining Betty Godbold for the ceremony were her daughter, Susan Godbold; her son, the Rev. Richard Godbold; a son-in-law, J. Lister

See "Hall of Fame," page 17

## John Cooper Godbold: Remarks by Tim Lewis

John Cooper Godbold was born on a small farm in Coy, Wilcox County, Alabama, on March 24, 1920. He attended public schools in Selma in Dallas County and in 1940 earned his Bachelor of Science degree from Auburn University, where he served as the editor-in-chief of *The Plainsman*, Auburn University's student newspaper. From 1941 to 1946, he served as an artillery officer in Europe during World War II, seeing action from D-Day until the end of the Allied campaign in Europe. When he returned to the United States, Godbold attended Harvard Law School on the G.I. Bill, graduating in 1948. He moved his family to Montgomery, was admitted to the Alabama Bar and began to practice law.

In 1949, Godbold joined the law practice of Richard T. Rives, together forming the law firm of Rives & Godbold. When Truman Hobbs joined their practice in 1950, they formed the firm of Rives Godbold & Hobbs. Eventually all three of the partners of the firm were appointed to the federal bench; however, the firm's practice continues today under the name Copeland, Franco, Screws, and Gill.

In 1966, President Lyndon B. Johnson appointed Godbold to the Fifth Circuit Court of Appeals, where he presided over several landmark civil rights cases. In 1981, Godbold became the chief judge of the Fifth Circuit, which was in the process of being divided into two circuits, the Fifth and the new Eleventh Circuit. As chief judge, Judge Godbold oversaw the division of the two circuits and afterward became the chief judge of the new Eleventh Circuit, thus becoming the only person ever to serve as chief judge of two federal judicial circuits.

See "John Cooper Godbold," page 17

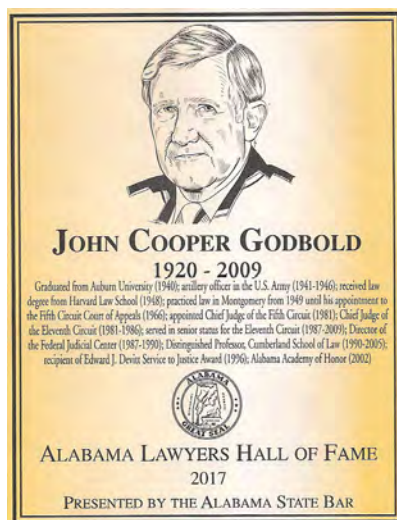
**Editor's note:** Tim Lewis, director of the Alabama Supreme Court & State Law Library, inducted Chief Judge John C. Godbold into the Alabama Lawyers Hall of Fame. These are the remarks he made at the induction ceremony on May 4, 2018.



## Hall of Fame, continued

Hubbard; and a grandson, Joseph L. Hubbard, Jr. Both Hubbards are members of the Alabama State Bar.

Other 2017 inductees included Bibb Allen and Alto V. Lee III, both distinguished lawyers and past presidents of the state bar. Inducted also was Mahala Ashley Dickerson, the first female African-American lawyer admitted to practice in Alabama. She would later hold the same distinction in Alaska. The inductee deceased at least 100 years was Charles Tait, who served as Alabama's first (and, at that time, only) federal district court judge, from 1820-1826.



Among other federal judicial inductees are Frank M. Johnson, Jr. (2004), Hugo L. Black (2005), Robert S. Vance (2006), John Archibald Campbell (2007), Thomas Goode Jones (2007), John McKinley (2011), Seybourn H. Lynne (2013) and Sam C. Pointer, Jr. (2014).

A permanent plaque will reside in the Hall of Fame, located in the Heflin-Torbert Judicial Building in Montgomery. (Courtesy of Reggie Hamner)

**About the author:** Reggie Hamner is a member of the Alabama State Bar and was executive director of that organization for 25 years. In 1995, he was named court project coordinator with the U.S. District Court for the Middle District of Alabama. In that capacity, Hamner represented the court's interest in the construction of the annex to the Frank M. Johnson, Jr. Federal Building and U.S. Courthouse, as well as renovation of that historic building. He also served as an Alabama trustee on the Board of the Eleventh Circuit Historical Society from 2009-2018.

## John Cooper Godbold, continued

In 1987, William Rehnquist, chief justice of the United States Supreme Court, appointed John Godbold to serve as director of the Federal Judicial Center. After his tenure at the Federal Judicial Center, Godbold returned to the Eleventh Circuit on senior status. In 1990, he was named the Leslie S. Wright Distinguished Professor at Cumberland Law School, where he taught federal jurisprudence and professional responsibility, among other courses. In 1996, he was honored with the Edward J. Devitt Distinguished Service to Justice Award, the highest honor awarded to a federal judge. In 2002, Godbold was inducted into the Alabama Academy of Honor. On June 6, 2011, the federal courthouse annex to the Elbert P. Tuttle U.S. Court of Appeals Building, the home of the Eleventh Circuit, was dedicated as the John C. Godbold Federal Building.

Judge John C. Godbold was esteemed by his colleagues on the bench, attorneys with whom he practiced and



At the May 4 induction ceremony, from left, the Rev. Richard Godbold, Betty Godbold, Joseph L. Hubbard and Alabama State Bar President Augusta Dowd. (Photo courtesy of Reggie Hamner)

those attorneys who practiced before his court. Noted for his collegiality, his knowledge of the law and his respectful demeanor, he had a profound, positive impact on those around him. According to Judge Joel Dubina, a colleague and friend, "Judge Godbold loved his God, his family, his nation, and the Rule of Law."

Upon his death in 2009, one of his law clerks, Delores Boyd, who later served as a magistrate judge, gave the following description of Judge Godbold:

"A good and honorable man who lived a wonderful life and served the cause of justice with excellence has passed our way, and we are the better for knowing him: our souls are

stronger, our spirits are more joyful, our hearts are more open, our lives are more balanced, and we are more firmly committed to excellence in all our endeavors."

The bench and bar of the State of Alabama is proud to induct Judge John C. Godbold into the Alabama Lawyers Hall of Fame.

# Students tour U.S. Bankruptcy Court in Tallahassee

The U.S. Bankruptcy Court for the Northern District of Florida hosted a tour at the courthouse in Tallahassee, Florida, on March 9 for students from Godby High School.

During the tour, Clerk of Court Traci Abrams described the role of the clerk's office to support judicial officers through administrative management. Chief Deputy Clerk Travis Green discussed the history of the courthouse and provided an overview of bankruptcy courts as part of the federal court system.

Law Clerks Samantha Kelley and John Van Hise explained the purpose of bankruptcy legal actions and described the role of Chief Judge Karen K. Specie in overseeing bankruptcy proceedings and the role of chambers staff in providing support. In the historic courtroom, Courtroom Deputy Janet Weems explained the courtroom layout and the use of courtroom technology, and described the roles of participants in court proceedings.

The courthouse tour was part of the third annual Leon County Public School Legal Diversity Initiative. The stated purpose of the event was to "provide Leon County high school students an opportunity to learn more about the judicial system and explore the diversity of the legal profession."

Students from other high schools toured the Leon County Circuit Court and the First District Court of Appeal. After the tours, the students went to the Florida State University College of Law for program presentations, mock trials and a networking lunch.

Additional information on the diversity initiative for public schools is available from The Florida Bar at <https://www.floridabar.org/about/volbars/a-diversity-initiative-for-public-schools/>.



The Godby High School students, here outside the U.S. Bankruptcy Court in Tallahassee, toured the courthouse as part of the third annual Leon County Public School Legal Diversity Initiative.



Godby High School students fill a staircase at the U.S. Bankruptcy Court in Tallahassee.

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## Editor's note

The U.S. Bankruptcy Court for the Northern District of Florida plans to include this news item in its next Bankruptcy Advisor Newsletter.

# Mobile welcomes new Clerk of Court Andrea Redmon

On April 30, 2018, Andrea Redmon was sworn in as the new clerk of court for the U.S. Bankruptcy Court in the Southern District of Alabama.

Redmon has worked for the U.S. Courts for 28 years. She started her career in the judiciary in September 1989 with the Bankruptcy Court, Northern District of Georgia, Atlanta Division, as a file retrieval clerk. She quickly moved up within the court, becoming the intake work leader and then subsequently moving to the U.S. District Court for the Northern District of Georgia for two years.

In 1996, she accepted a position at the U.S. Bankruptcy Court, Eastern District of Virginia, where she worked as the first CM/ECF Dictionary Administrator. She was instrumental in working with the then CM/ECF prototype system and implementing that system in the court, as well as helping set the standards for other courts to follow. During the next eight years, she also served as a mentor for and assisted many courts in their conversion to the CM/ECF system.

In 2001, Redmon became the project manager for the U.S. Bankruptcy Court in the Eastern and Western Districts of Arkansas. In this role, she led the court's successful implementation of the CM/ECF system – this after both the clerk and chief deputy left the court two months before the conversion.

In 2002, Redmon became the chief deputy clerk for the Northern District of Oklahoma, a position she held for



Andrea Redmon, here standing before the U.S. Supreme Court, is the new clerk of court for the U.S. Bankruptcy Court in the Southern District of Alabama.

16 years. During that time, she graduated from the Federal Court Leadership program, and she participated on many national initiatives and working groups such as the FJC Advisory Group, the Methods Analysis Program (MAP) Working Group, and writing requirements for the NextGen system.

In 2014, in addition to her daily court duties, Redmon accepted a temporary duty assignment with the Technology Solutions Office at the Administrative Office. She served as the business transformation leader, analyzing business processes and showing how technology could help the courts become more efficient. She supported the Bankruptcy and District Technology Working Groups until she accepted her new position as clerk of court.

Redmon is a lifetime member of the National Conference of Bankruptcy Clerks (NCBC) and served on the Board of Governors in 2006-2008.

She enjoys both domestic and international travel, her favorite destinations including Hawaii, Italy, Spain and the Outer Banks of North Carolina. She enjoys exploring wineries in her home state of Virginia while visiting her sister Joy and two nephews, Chase and Jake. You can find her many nights walking her fur baby, Bailee, her 13-year-old pug, as well as assisting in pug rescue.

She is happy to be back on the coast and is looking forward to immersing herself in the charm of the historic city of Mobile.



**Visit the 11th Circuit Historical  
Society Website:**

<https://sites.google.com/site/circuit11history>

## Hatchett, from page 1

Florida. Hatchett also was the first African-American to be appointed to the United States Court of Appeals' Fifth and Eleventh circuits.

As impressive as those accomplishments are, they become even more remarkable when considered in the proper context and theater: a time in our nation's history when the laws in the South were specifically designed to disenfranchise African-Americans; a time when African-Americans were brutalized, and often killed, at the hands of government officials for speaking out against social injustice and unequal treatment; and a time when African-Americans were considered to be less than human and were treated as second-class citizens.

In this article, we will explore Hatchett's life and many of his career accomplishments, and how he was able to overcome the plight of being black in America by challenging institutionalized and government-sanctioned racism.

Hatchett was born on Sept. 17, 1932, in Clearwater, Florida. The youngest of five children, Hatchett grew up in poor, segregated neighborhoods and attended segregated schools. His father, John Hatchett, and his mother, Lula Hatchett, were hard-working. His father was a fruit picker, and his mother was a maid. John and Lula Hatchett were devout Christians. They taught their children lessons of humility and the importance of walking in faith. Treating others with respect and doing what was right was always a directive and was never optional. In the home, standards for personal conduct were set high, and consequence always accompanied misconduct. "My father would beat the hell out of us," Hatchett joked. "And I'm thankful for that."

Hatchett was an intellectual child who spent most of his time immersed in his school studies. But like most young boys, he was also very active in the neighborhood. As a kid, his favorite sport was boxing. In those days, boxing was the most popular sport in America, and every kid aspired to be Sugar Ray Robinson. Hatchett and his neighborhood friends often boxed one another for fun. "Having a fight meant nothing to us; we fought each other every day," Hatchett recalled. "We thought that would get us out of poverty," he explained. "It made me as tough as the next guy." When he grew bored with running around with the neighborhood boys, Hatchett often went down to the famous Clearwater pier, where he would fish for hours. "I was a great, great fisherman in those days." Hatchett laughed.

Growing up, Hatchett was also very active in the church. He attended church every Sunday and played piano for his Sunday school class. At times, he sang in the youth choir. But Hatchett, like most kids in his neighborhood, was just an ordinary kid with aspirations of a better life.



In a photo from the early 1960s, Joseph W. Hatchett (top left) is standing with (clockwise, from front): Hatchett's mother, Lula Hatchett, seated at the table; his nephew Paul Hatchett, Jr.; his niece Pamela Hatchett; his wife, Betty Hatchett; his niece Paulette Hatchett; his daughter Cheryl (held by Paulette); an unidentified family member; and his brother Paul's wife, Pearlie Mae Hatchett.  
(Hatchett family collection)



Judge Hatchett still has his Florida A&M University marching band letter. He played the trombone.  
(Hatchett family collection)

In high school, Hatchett thrived as a student and as an athlete. He graduated second in his class and played basketball on the basketball team during all four years. He also played the trombone in the high school band. He grew more passionate for music after seeing the marching band at Florida A&M University, which became one of the main reasons he began wanting to attend Florida A&M. But during his senior year in high school, Hatchett's father passed away, and his prospects of attending college were in jeopardy because he no longer had the support to attend without a scholarship. But during the summer

## Hatchett, Continued

after his graduation from high school, he received a full academic scholarship to Florida A&M, with all expenses paid, and moved to Tallahassee, Florida, that fall.

Hatchett began college shortly after the start of the Korean War. He registered for the draft and enlisted in the Army, but he was granted a deferment after joining the Reserve Officers Training Corps at Florida A&M. Upon graduation, however, he would be required to fulfill his two-year military obligation. In college, Hatchett majored in political science and pursued a minor in history. He joined the marching band and became a member of Omega Psi Phi fraternity.

Hatchett recalled one student experience that had an effect on his decision to pursue a career as a lawyer. Political science professor Emmett Bashful took his class to the Florida Supreme Court to watch oral argument in the legendary Florida civil rights case brought by Virgil Hawkins, an African-American who had sued the Florida Board of Control after he had been denied admission to the University of Florida School of Law because he was black. This was the first time Hatchett had ever seen or been to the Florida Supreme Court. Little did he know that this experience would come full circle 25 years later.

When he graduated from college, Hatchett began his commission in the United States Army, and he was appointed second lieutenant. Hatchett spent several months in Texas at Fort Bliss, where he entered basic training and anti-aircraft artillery school. Thereafter, Hatchett was stationed in West Germany, where he would serve as an anti-aircraft lieutenant in the 73rd AAA Battalion. Hatchett had never lived without segregation before being stationed in West Germany. He resigned from his commission as a first lieutenant after 18 months of service, after realizing that he did not want to pursue a career in the military. Hatchett wanted to become a lawyer, and he had been thinking about going to law school for quite some time. He remembered a conversation he had with his high school civics teacher, Milton Rooks, who was the first person to suggest that Hatchett pursue a career as a lawyer. "He was a mighty, mighty teacher and a great inspirer," Hatchett recalled. "He was the one that told me and my classmates that America would change when the law changed, and therefore we



Joseph W. Hatchett, center, is surrounded by most of his family during Christmas at the home of his daughter, Cheryl. For years, Hatchett and his family have celebrated the holiday together at her home. (Hatchett family collection)



would need lawyers to help bring about that change. I started thinking of law school that early."

Hatchett returned to the United States in 1956 and attended Howard Law School. Hatchett wanted to attend Howard because, at the time, Howard was the pre-eminent law school for social justice and civil rights activists, as it still is today. "Howard in those days, we didn't talk anything but civil rights; that's what we were going to do, that's what we were there for, and that was our calling," Hatchett said. While a student at Howard, Hatchett spent time with his

classmates outside of the classroom, and during class breaks, discussing civil rights and theories to attack state laws. "So I was completely indoctrinated," Hatchett recalled. Although he qualified, Hatchett did not work on



Hatchett poses with his wife, Betty, while serving as a lieutenant in the United States Army. (Hatchett family collection)



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Howard Law Review because he had married his hometown sweetheart, Betty, on the way to law school and had to work to support his family instead. "I worked at the post office at night and went to school during the day," he explained. Hatchett met Betty at the age of 11 while fishing at the Clearwater pier on a day when she had caught several fish and he had caught none. His intrigue with her fishing abilities obviously got the best of him. They fell in love, and the rest was history.

In 1959, Hatchett was graduated from Howard Law School. After graduation, Hatchett and his wife returned to Florida and began preparing for the Florida Bar exam. Leander Shaw was in Tallahassee teaching at Florida A&M at the time. Hatchett had met Shaw when they were students at Howard Law School, with Shaw being a year ahead. Hatchett and Shaw became close friends there, and they remained close friends until Shaw passed. Hatchett and Shaw reconnected in Tallahassee and studied together for the Bar exam. They even traveled together down to Miami to take the exam, which was administered at a segregated hotel. Hatchett and Shaw were not permitted to room or eat at the hotel where the exam was administered, so they roomed and ate at a nearby hotel for blacks only. Despite these circumstances, they passed the exam. "So everything was fine," Hatchett said.

After passing the Florida Bar exam, Hatchett moved to Daytona Beach and went to work for a well-known civil rights attorney, Horace Hill, whose family was also from Clearwater. "He knew my family, and my family knew his family," Hatchett explained. Hill was also a proud Howard Law School alum who was known for his involvement in several major civil rights cases, including his representation of Virgil Hawkins and his involvement in the case against the "Groveland Boys." Hill's practice was focused in the area of civil rights, but it also included small criminal, estate and divorce cases. Hatchett's employment with Hill seemed to be a perfect fit, but it did not last long. Hatchett decided he did not want to practice law the way Hill practiced and resigned after 10 months. At the time, Hatchett and Betty were expecting their first child, and they had very little money. Hatchett's plan was to find work doing whatever he could for a couple years so that he could save enough money to move to Miami and open a legal practice.

Hatchett decided he would apply for a job driving trucks at Cape Canaveral, after learning they were hiring. He did not own a car, so he planned to walk to the bus station and catch the bus to Cape Canaveral. On the way, a man named James D. Pruden noticed Hatchett walking down the road. Pruden was an older gentleman who worked as real estate broker. He and Hatchett attended the same church and sang in the choir together. Pruden

offered Hatchett a ride to wherever he was going. Pruden, who knew Hatchett was a lawyer, was curious as to why Hatchett was walking to the bus station, so he asked. Hatchett explained that he had resigned from his job with Hill and was on his way to apply for a trucking job. Hatchett explained that he and his wife were expecting their first child, had very little money and could not afford to purchase a law license or open a law practice.

Pruden abruptly turned the car around and made Hatchett an offer he could not refuse. Pruden told Hatchett he had vacant office space in the building he owned and operated his real estate practice from. He offered to allow Hatchett to open a law practice in the vacant office space for free and permitted Hatchett to use any resources he would need that were in the office already until Hatchett could get on his feet. Hatchett was in shock by Pruden's proposal. Needless to say, he accepted the offer without hesitation. This was a major turning point. To this day, Hatchett often thinks about Pruden and the impact he had on his life, his career and the many people he was able to touch along the way because of it. "He was my great benefactor," Hatchett declared.

In the 1960s, the civil rights movement was roaring across America. "The greatest thing going was civil rights," Hatchett recalled. African-Americans were holding organized protests and demonstrations across the state and nation. The fight for social justice gained significant momentum after the landmark United States Supreme Court decision of *Brown v. Board of Education*.

The National Association for the Advancement of Colored People had been challenging discriminatory laws nationwide. As a private practitioner, Hatchett began working as a cooperating attorney with the NAACP. He joined the Florida team, which was led by Earl Johnson, an attorney out of Jacksonville. Leander Shaw and Francisco Rodriguez, a high-profile attorney from Tampa, also were cooperating attorneys on the Florida team. As the youngest member of the team, Hatchett was responsible for the least desirable assignments. "I was given the dirty jobs," Hatchett recalled. Hatchett worked closely with the demonstrators. He taught them how to conduct themselves during demonstrations and how they should respond when confronted by law enforcement. Hatchett was not concerned with defeating the charges in court, because the demonstrators were intentionally breaking the law. He instead focused on disrupting the system using civil disobedience and cooperating with authorities after demonstrators were arrested. "I lost more cases in one day than any lawyer in the world because we would have sit-ins and wade-ins and all of the demonstrations. Of course, the kids would get arrested and they were

supposed to get arrested, and the team would have to get them out of jail," Hatchett explained.

Getting the demonstrators out of jail took ingenuity and bravery. Hatchett knew the jails lacked the staff and the resources necessary to house hundreds of people. When demonstrators were booked, for example, children had to be separated from adults, boys separated from girls, and so on. "We would overcrowd the jail, and the officials would have to close the jail or they would have to rent another place or send the arrestees out of county. So, it wasn't a great burden by the kids being arrested, because nobody wanted them out of jail more than the people that put them in jail," Hatchett said. Overcrowded jails also produced viable constitutional claims for the demonstrators. Hatchett filed those claims in federal court and moved for removal as often as he could, because removal from state court triggered the release of the demonstrators from county jail. "It was left to people like me to find a way to let the officials off the hook and get the arrestees out of jail. And we'd do that month after month after month, because we were just cooperating," Hatchett explained.

When creative tactics failed, Hatchett would get the demonstrators out of jail by posting bail. He held rallies at churches and collected donations to raise money for bail. There was only one bail bondsman in the state at the time who would post bail for Hatchett's demonstrators, Charles Cherry. Hatchett traveled with Cherry all over the state posting bail for his demonstrators. Doing this work was often dangerous. The Ku Klux Klan was always nearby, and it often initiated counter-protests during civil rights demonstrations. "The Klan knew me, and I knew the Klan," said Hatchett. On one occasion, Hatchett and Cherry traveled to the county jail in St. Augustine to post bail for several demonstrators. But when they left that evening, they found themselves in a frightening situation. "The Klan was there, and our demonstrators were there, and it was a very tense situation," Hatchett recalled. Dueling protests between the Ku Klux Klan and several demonstrators were about to turn violent.

When Hatchett drove out of the jail parking lot, two cars that were parked near the back of the lot began to follow. "We knew they were Klansmen," Hatchett said. Hatchett kept a close eye on the cars as he headed south on United States Highway 1. Hatchett always kept a firearm in his glove compartment. When he reached for his glove box, he realized it was locked. Hatchett had made a terrible mistake that could have costed them both their lives.

"I made the mistake of not unlocking the glove compartment before I turned on the ignition," said Hatchett. The key to the glove box was with the ignition key, and Hatchett could not unlock the glove box without coming to a stop. "They would have caught up to me, so

I wasn't about to do that," Hatchett said. He floored the gas pedal and eventually reached a point on the highway where he could whip the car around in the median and head back to the jail. Hatchett drove as fast as he could, and by the time he had made it back to the jail, the Klansmen were gone. To be safe, Hatchett went back inside the jail and contacted two highway patrolmen and told them what had happened. "And they said, 'OK, head out again, we'll follow you and we won't let anybody pass us, but when you get to the county line, haul ass.' And that's what we did," Hatchett laughed. But at the time, it was far from a laughing matter. "That was the closest I'd got to getting hurt," Hatchett recalled. "Whites ruled everything and dared you to step out of line. We just weren't going to take it anymore. That was the civil rights movement."

During his time as a civil rights attorney, Hatchett was also filing lawsuits against the city of Daytona Beach and private businesses for constitutional violations. After a while, Hatchett had sued Daytona Beach on every constitutional issue imaginable. He had even sued to desegregate the schools in Daytona Beach while his wife was employed as a teacher there; he dared them to retaliate against her, but they never did.

"We were looking for cases to take to the Supreme Court," Hatchett recalled. Hatchett was suing so much that the city attorney eventually asked him to try an urban renewal case on behalf of the city. Of course, Hatchett accepted that challenge, and he went on to argue and win that case, too. Ironically, his representation of the city in that case led to an opportunity to advance his career. The Department of Justice had intervened in the case after the city presented evidence of a pattern and practice, and Hatchett's performance drew the attention of Edward Boardman, who was the United States Attorney for the Middle District of Florida. Boardman offered Hatchett a position with the Department of Justice as a federal prosecutor. When he accepted the position, Hatchett made history for the first time in his career by becoming the first African-American attorney to represent the Department of Justice in the Deep South.

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Hatchett began his tenure with the Department of Justice on July 1, 1966. The Department of Justice was far more political than it is today, and in 1968, the country would hold a presidential election. Lyndon B. Johnson was the president, and Hatchett was afraid to move his growing family – in 1963, Betty had given birth to a second baby girl, Brenda Hatchett – to Jacksonville immediately over fear that the Republican Party would

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win the White House. He assumed he would be asked to tender his resignation if that were to occur, which was customary upon a shift in party control. So, he opted to stay put.

Hatchett, for the next two years and with two young children at home, commuted to Jacksonville on Mondays and returned to Daytona Beach on Fridays. As he suspected, the Republicans won the presidency in 1968, with the election of Richard M. Nixon. Boardman resigned as United States Attorney for the Middle District of Florida and was replaced by a Republican appointee, John L. Briggs. Hatchett believed he would be forced to resign, but that never happened. Instead, and much to Hatchett's surprise, Briggs asked him to stay and promoted him to serve as first assistant. While there, Hatchett tried countless bench and jury trials and had unprecedented success. He won 27 consecutive jury trials at one point and never lost a single bench trial.

During Hatchett's time at the Department of Justice, Congress passed the Federal Magistrates Act, which authorized the replacement of United States commissioners, who were unlicensed part-time judicial officers, with full-time licensed magistrate judges. United States district court judges were authorized to appoint magistrates to their respective districts. When Hatchett caught wind of this, he contacted Judge William A. McRae, the chief judge of the Middle District of Florida, to let him know he was interested. Hatchett was well known by many of the judges in the Middle District of Florida. Having represented the Department of Justice for the past several years, he had tried many cases before them. Hatchett applied, and as expected, drew support from several of the district court judges. After four years with the Department of Justice, Hatchett would make history for the second time, when Judge McRae appointed Hatchett to the bench as a magistrate in 1971. Up to that point, there never had been an African-American federal judicial officer in the South.

Hatchett could not have known that he would soon be back on the frontlines in the battle for social justice in his capacity as a magistrate judge, but he would. In 1974, Richard Franklin Miller, a federal detainee temporarily housed in the Duval County Jail, sued the sheriff of Duval County, Dale Carson, and other state officials, alleging violations of his constitutional rights as a result of the conditions within the Duval County Jail. United States District Judge Charles R. Scott presided over the case and appointed William J. Sheppard, a well-known civil rights attorney, to represent Miller and others similarly situated in a class action suit. Judge Scott issued a preliminary injunction that, in essence, prohibited defendants from violating the plaintiffs' constitutional rights while the case proceeded. Shortly thereafter, the defendants

moved to modify the injunction. At the hearing, testimony suggested that problems with enforcing the preliminary injunction were likely to continue. Judge Scott suggested that an ombudsman be appointed to oversee the enforcement of the injunction as the suit proceeded, which was received with enthusiasm by both parties. Counsel on both sides suggested that Hatchett be appointed ombudsman. As ombudsman, Hatchett was responsible for helping the court develop and resolve issues that might arise on a day-to-day basis in the Duval County Jail with regard to enforcing the provisions of the preliminary injunction.

Judge Scott's order making Hatchett the ombudsman provided wide-ranging authority to enforce the provisions of the preliminary injunction. For example, Hatchett had the authority to visit the jail at any time upon 30 minutes notice to counsel for the parties. He also could question any inmate, correctional officer or staff member regarding any problem with implementation or any alleged violations. In addition, he was permitted to inspect all portions of the jail, any adjoining buildings, structures or areas of incarceration, read and copy all inmate files and visit any inmate confined in a hospital or medical institution in furtherance of investigating violations.

Hatchett began by conducting an inspection of the jail from top to bottom. "It was a sad, sad, jail . . . all kinds of bad things were happening," Hatchett recalled. "Half the toilets didn't work, minors were being kept with adults, men and women were in close proximity and sometimes in the same cell block, it was just awful." Hatchett submitted several reports detailing the reprehensible and outrageous conditions. His reports exposed violations that were wide-ranging in scope, and included such things as faulty plumbing, inmate overcrowding, inadequate correctional officers, the issuance of soiled linens, the use of dirty cutlery, substandard nutrition practices, unlicensed food handlers, the absence of clinical facilities and on-site physicians and the failure to transport mentally ill inmates to mental hospitals. "I would report those kinds of violations, and then we would go have a contempt hearing in federal court," he explained. "We ordered the jail to clean up and make corrections to everything that was wrong," he declared.

Eventually, Hatchett's reports were made available to the public, and he drew wide-spread condemnation for his efforts. "You know, nobody thought prisoners should have any rights, they are there to be punished, so punish them . . . nobody cared whether [prisoners] had adequate restroom facilities in their cell," Hatchett said. "If it was bad, that was good enough for a prisoner." But when all was said and done, the Duval County Jail had been completely transformed. Inmates were housed in cells that



were clean and had adequate toilets, water facilities and seating arrangements. Hatchett made sure that minors were no longer being housed in the jail, and that men and women were no longer kept in close proximity and that the inmate population was reduced. He also made sure routine medical treatment was available to all inmates and established on-site clinics with full-time physicians and physicians' assistants. They even had a recreational area installed on the top of the jail.

The significance of this case could not be overstated. It was one of the first lawsuits brought by prisoners alleging violations of constitutional rights. Before this case, prisoners' rights had hardly been discussed, let alone litigated. This case activated the call for prison reform nationwide, and in its wake came a wave of reformative measures. Hatchett was happy to be involved from the beginning. It gave him another opportunity to right what he knew to be wrong. In the process, he restored respect for human dignity and defended the civil rights of all people, including inmates and prisoners. "I was always for freedom and civil rights, and I was happy to be at the forefront of prisoner rights."

In 1971, and while working full time as a United States magistrate judge, Hatchett was recruited by the United States Marine Corps. The Marine Corps had no African-Americans serving as judge advocate generals, and the Corps asked if Hatchett would consider joining as a JAG officer. Hatchett never turned down an opportunity to serve his country and agreed to join the Marine Corps Reserves. For the next 13 years, Hatchett fulfilled his reserve commitment by attending local meetings every Monday night and traveling to Camp Pendleton in California for active duty for two weeks out of the year. Before the creation of the magistrate judge position, district court judges completed most of the responsibilities of magistrates. So when Hatchett would report for active duty two weeks out of the year, the district court judges stepped in and fulfilled his duties and responsibilities as a magistrate. During those two weeks, Hatchett would put on a military uniform and hold court as a military judge, "which was very interesting," he said.

Hatchett also took the opportunity each year to spend time with his family. He drove from Jacksonville to California with his entire family in tow. His daughters, Cheryl and Brenda, really enjoyed watching the military guards salute Hatchett every morning as he entered the gates. They also loved visiting and spending time on base because Hatchett always took time to do fun things. One of their favorite memories was going on a horseback riding tour with their father near the base. The tours were led by Marines. Cheryl remembered one time when the tour guide made the horses run faster than usual. She distinctly remembered this because Hatchett's saddle gave him

trouble during the tour and caused him to lean to the side of the horse as they began to pick up speed. Cheryl and Brenda laughed hysterically, believing that their father was having the time of his life; from their vantage point, it appeared Hatchett was laughing out of control. Anyone that knows Hatchett will tell you he has always had a great sense of humor, so for him to be comical while riding on horseback was not unusual to them. When they finally came to a stop, however, they realized there was nothing funny about the look on Hatchett's face. Hatchett had been holding on for dear life the whole time. Needless to say, Cheryl and Brenda had a good laugh as Hatchett had words with that poor Marine tour guide.

In 1975, the Hon. Charles R. Scott announced that he would soon be retiring. Hatchett was very interested in filling the vacancy that would be created by his retirement, "and I told him so," he recalled. Simultaneously, the Florida Supreme Court was emerging from a dark time in its history — four of its justices had recently been ousted following revelations of scandals. Hatchett wondered if applying for a vacancy on the Florida Supreme Court would increase his chances of consideration for the district court vacancy created by Judge Scott's retirement. "I went to [Judge Scott] and said, 'You know I think I'll apply for that vacancy on the Supreme Court, because if I make the list it would look good when you retire.'" Judge Scott agreed and urged Hatchett to apply because there was no downside to applying. "I applied for the Supreme Court, never thinking that I would make the interview list," Hatchett said.

Hatchett could not have been more wrong. After submitting his application, he received notification that he had made list of candidates to be interviewed by the Judicial Nominating Commission. Up to this point, Hatchett had been practicing almost exclusively in federal court. "I had been a civil rights lawyer practicing primarily in federal court, because that's where you could get relief in those days," Hatchett recalled. He hadn't done much in state court and had virtually no state court experience. "I didn't even know how to get a divorce in the state courts, because I'd been an assistant U.S. attorney for four years, and I'd been a magistrate judge for four years, so I'd been away from state court for eight years," he explained.

This made preparing for his interview all the more challenging. When he began his preparation, he relied on his educational foundation from law school, knowing that he would be interviewed by a panel of lawyers serving on the Florida Judicial Nominating Commission, who were experts in Florida state and constitutional law. "So I went back primarily to law school and learned the

*(continued, next page)*

## Hatchett, Continued

Florida Constitution all over again and read all of the latest opinions out of the Supreme Court," he recalled. "And I did that work never thinking it was going to pay off, this was just a way to get prepared for the federal court." But it would end up paying off in ways that he never could have imagined.

The Judicial Nominating Commission was conducting the interviews in Boca Raton, Florida, and it wasn't long before Hatchett made his way down south for the interview. When he arrived, Hatchett took a moment to let the significance of what was about to occur sink in. "I thought to myself, 'My this is so good,' you know, I was ahead." After the interview, Hatchett was very surprised to learn that his name would be one of three recommended to Gov. Reubin Askew by the Judicial Nominating Commission. "And then I thought to myself, 'Oh my, this is really good!' " he remembered. It didn't take long for the news to spread. Making the short list of candidates for appointment to the Supreme Court as an African-American in 1975 was a profoundly historic moment in Florida history in and of itself. The idea of an African-American being appointed to the Florida Supreme Court was simply implausible to most people and sparked a lot of attention from the media and others. "I was in all of the newspapers, and all of my friends were excited," said Hatchett. Hatchett soon received a call from Gov. Askew, who invited him to Tallahassee, Florida, for an interview on a Saturday morning in July of 1975.

On that Saturday morning, as he made his way to the door of the Governor's Mansion, Hatchett had no idea what to expect. "I came to the front door of the mansion and I rang the doorbell, and nothing happened, and all at once a man came from around the side of the house with two Cokes in his hand, and I looked, and it was the governor." Gov. Askew was dressed casually that warm Saturday morning and greeted Hatchett with a big friendly smile. "He was in shorts and he said, 'Come on out here by the swimming pool and let's talk,'" Hatchett recalled. During the interview, they discussed wide-ranging subject matter. "I went on out there and we talked about all kinds of things, like our mothers and what I had done in life and everything," said Hatchett. Toward the end of the interview, Hatchett was told that he would be considered for appointment, "And I thought, whoa! Now this is really good," he remembered. "And when I got back to Jacksonville all of my neighbors were waiting with a big party for me, and we had a big party and I was on cloud nine."

Hatchett was hoping to learn whether he would be appointed to the Florida Supreme Court by the following week, but the answer came much sooner. The next evening, the telephone rang, and Hatchett's daughter, Brenda,



Joseph W. Hatchett is sworn in as the first African-American Florida Supreme Court Justice.  
(Hatchett family collection)

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answered the phone. "She said, 'Daddy a man says he's the governor on the phone,'" Hatchett recalled. In disbelief, he raced to the telephone. "Gov. Askew told me I'm going to announce your appointment in the morning." Immediately, total shock began to set in. "Well my heart jumped in my throat, I didn't know what to say, I think I said thank you," said Hatchett. The next morning, Hatchett became the first African-American to be appointed to the Florida Supreme Court.

On Sept. 2, 1975, Hatchett was sworn in as Florida's first African-American Supreme Court Justice. Hatchett's friends and family members came by the busload, and he drew large support from church members of Bethel Baptist Church in Jacksonville, where Hatchett and his family attended service each Sunday. Thousands of others from across the state and beyond attended to witness this historic occasion. "The courtroom was overrun with people. People were all out in the lobby and onto the lawn," Hatchett recalled. This was a proud moment for not only Hatchett and his family, but the entire African-American community. One of the most important people in attendance that day was Hatchett's mother, who at the age of 91 would witness her youngest son make history. Overnight, it seemed Hatchett had become an icon in the African-American community. And in that moment, it seemed he'd become the poster child for the civil rights movement.

## Hatchett, Continued

Just 15 months later, Hatchett had to overcome the impossible a second time by running in a statewide election for Florida Supreme Court. He had achieved a seat on Florida's high court by winning the governor's approval, but now Florida voters would get to decide if he would remain there. "I had never run for public office, and all at once I had to run statewide," Hatchett said. His opponent, Harvey Duval, was a circuit judge in Miami who ran a nasty campaign full of personal attacks with racial undertones.

"He said bad things about me, I said bad things about him," Hatchett said. Hatchett ran a tough election campaign with the help of so many, including the governor. After the polls closed on Election Day, and after every ballot in the state had been counted, Hatchett had made history again. He had defeated Harvey Duval, earning 63 percent of the vote, and with that became the first African-American to win a statewide election in Florida. To this day, he remains the only African-American to win a statewide election in Florida.



President Jimmy Carter, Gov. Reubin Askew and Judge Joseph W. Hatchett at Gov. Askew's swearing-in ceremony as United States Trade Representative on Oct. 2, 1979. (Hatchett family collection)

Hatchett wasn't satisfied with just making history, though. He wanted to make a change in favor of social justice and equality as a justice of the Supreme Court. For decades, the Florida Supreme Court had been enforcing discriminatory state laws. But the court was beginning to embrace a much more progressive view of the law, advancing the rights of minorities, women and those in the LGBT community. When the case of Virgil Hawkins made its way back to

the Florida Supreme Court in

1976, Hatchett could hardly believe it. Hatchett, 25 years later, was now in a position to right what he knew to be wrong as a student at Florida A&M University. Since then, Hatchett had been a civil rights attorney, worked for the Justice Department, served as a United States magistrate and been appointed to the Florida Supreme Court. He could not have been prouder in that moment

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The 11th Circuit Historical News is published periodically by the Eleventh Circuit Historical Society.  
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## Judge Joseph Woodrow Hatchett, Continued

to have been able to take part in the court's decision to finally grant Hawkins' admission to The Florida Bar after all those years. While Hatchett took part in deciding many important cases as a justice of the Florida Supreme Court, this case was very special to him because of the unique circumstances.

Hatchett resigned from the Florida Supreme Court in 1979, when President Jimmy Carter appointed him to the United States Court of Appeals for the Fifth Circuit. With this appointment, Hatchett became the first African-American to serve on a federal appeals court in the old Deep South Confederacy. At the time, the Fifth Circuit Court of Appeals included Florida, Georgia, Alabama, Louisiana, Mississippi and Texas. But in 1981, Congress split the Fifth Circuit by its creation of the Eleventh Circuit, which consisted of Florida, Georgia and Alabama. With the split, Hatchett became a member of the United States Court of Appeals for the Eleventh Circuit. He remained on the Eleventh Circuit Court of Appeals until he retired from the bench as chief judge in 1999. Today, Hatchett is co-chair of the Appellate Practice of Akerman, LLP, and serves as chair emeritus of the firm's Diversity & Inclusion Committee. He also enjoys his role as member of the

Federal Judicial Nominating Commission.

As Hatchett's grandson, I must take this opportunity to express how much he means to our entire family. We have been fortunate to spend our lives listening to, learning from and understanding exactly who Joseph Woodrow Hatchett really is. We hope that this article will help others better understand who he is as well. As a family, we have learned so much from the person he is and his leadership throughout the years. His life accomplishments, and the lessons gleaned therefrom, will continue to shape our family for years to come. For as long as we can remember, he has always been a great father, grandfather and great-grandfather to all of his children, grandchildren and great-grandchildren. He is a man of tremendous courage who fears God, loves his family, walks in humility and never boasts in self pride. For our family, he is everything we strive to be and more. Words could never express how proud we are of him and how thankful we are for his contributions. "Well, I came along at the right time. At a time of great trouble and upheaval, and I was just in the right places. That's what makes history. You can't be a hero unless you're in the battle," said Hatchett. And the battle, Hatchett won.



## A Forgotten Story: The William Augustus Bootle Federal Building, from page 1

of "white men, about eighty of them, representing many nationalities, and [was] a good looking set of men."<sup>3</sup> Members of the public could watch the workers "fashioning designs out of the solid material by carving and chiseling."<sup>4</sup> The stonecutters made \$4 per day at a rate of 50 cents per hour. The newspaper reported that, all told, there were 200 workers engaged in the building's construction.

### Murder on Mulberry Street

Later that spring, on May 16, 1907, tempers flared at the work site, leading Thomas Battle to brain Duncan Monroe Berry with a 2-foot-long iron bolt and then push him off a third-story platform, breaking his neck and killing him

instantly. The altercation happened around 3 p.m. The following morning, the newspaper carried a front-page headline that read: "Mr. D.M. Berry Felled To Death From Dizzy Height."<sup>5</sup> As the newspaper reported, "Mulberry [S]treet was thrown into an excited state by the news" and "[r]umors flew thick and fast."<sup>6</sup> The newspaper described Berry, who had recently moved his family from Florida to work on the project, as "a vigorous, lusty specimen of young manhood" and described Battle as "an old and well know citizen" — "one of the oldest men in Macon," though he looked "not much past 50."<sup>7</sup> Berry was 32 years old and Battle was 73.

Just two hours after Berry's fall, an inquest was

### About the authors

Stuart E. Walker and William H. Larsen are partners in the law firm Martin Snow, LLP, in Macon, Georgia. The firm's downtown office is located immediately beside the courthouse that is the subject of this two-part series. Walker began his legal career as a law clerk at the Bootle courthouse, where he worked first for the late Senior District Judge Duross Fitzpatrick on the U.S. District Court for the Middle District of Georgia and then for Senior Circuit Judge R. Lanier Anderson III on the U.S. Court of Appeals for the Eleventh Circuit. Walker is the former editor in chief of the Georgia Legal History Foundation's *Journal of Southern Legal History* and currently serves on the *Journal's* editorial board. Larsen received his J.D. degree from the University of Georgia School of Law. He is the managing partner of Martin Snow, LLP, and is a member of the Board of Trustees of the Eleventh Circuit Historical Society.

## A Forgotten Story, Continued

convened, and after hearing evidence for two hours the coroner's jury rendered a verdict, finding: "We, the jury, find the deceased D.M. Berry came to his death by being struck on the head with a certain iron bolt in the hands of Thomas Battle, breaking his skull and causing him to fall from the third floor of the Government building . . . to the basement of said building, breaking his neck."<sup>8</sup> The doctor who examined Berry's body concluded that the blunt-force injury to the back of his skull was sufficient to have caused Berry's death — even without the breaking of his neck. The coroner's jury concluded: "[W]e find from the evidence that the same was murder."<sup>9</sup>

According to one eyewitness, Battle walked by Berry while Berry was "hanging on to ropes with one hand . . . in a very dangerous place at any stage of the game, even if nobody had interfered with him."<sup>10</sup> Battle said to him: "Well you are a son of a b\_\_\_\_ if you say I am one."<sup>11</sup> The eyewitness, overhearing the row, moved toward the two men, and as "Mr. Berry started to get up . . . Battle made a jog at him with something, a stick, or rake or hoe, I don't know what it was."<sup>12</sup> Things escalated from there:

Berry raised himself up and he got on his hands and knees, and he was trying to get up on his feet, when Battle grabbed the big iron bolt (. . . one inch in diameter and two feet in length) and struck Berry twice over the head with it and then gave Berry a push.<sup>13</sup>

Battle apparently immediately regretted pushing Berry because he "ma[d]e a grab with his left hand as though he tried to catch Berry — but Berry was gone."<sup>14</sup> Recognizing his role in the death but trying to claim justification for his actions, Battle asked the eyewitness: "Did you hear him call me a son of a \_\_\_\_\_? Do you blame me for doing it?"<sup>15</sup>

Battle's contemporaneous statement to the eyewitness, however, had changed a great deal by the time he testified before the coroner's jury. There, Battle told the jury:

I believe the man was drunk. Several times during the morning he was hacking me, but I kept below working the hands. When I went up to the second story to carry some hands so as to finish a piece of work he cursed me calling me a \_\_\_\_\_ and came toward me with an iron wrench . . . to hit me with it. He lost his footing — I believe he was drunk — and fell. That is all there is to it.<sup>16</sup>

Battle was charged with murder and quickly arrested on a warrant issued by U.S. Marshal George F. White. The U.S. marshals, rather than local authorities, took Battle into custody because "the homicide occurred on the property ceded to the Government for purposes of the Government building . . . on Government territory, thereby vesting the jurisdiction of the case in the Federal courts."<sup>17</sup>

By modern standards, the wheels of justice turned with blinding speed. The incident happened on a Thursday afternoon, Battle was indicted by the grand jury the



A modern-day view of the William Augustus Bootle Federal Building and United States Courthouse. (Photo by Scott Poupard)



Macon's second federal building and courthouse goes up, circa 1906-1908.



This is the way the federal building and courthouse looked in the early 20th century, from Mulberry Street, before its first major addition.

*continued, next page*

following Saturday morning, and he was scheduled to be tried for murder before Judge Emory Speer “within a week’s time.” In fact, Judge Speer set the case for trial on May 28 — just 12 days after Berry’s death.<sup>18</sup> As the newspaper boasted with no small amount of understatement, “[t]he Government is quick in handling such cases and Battle will not be kept very long from knowing his fate.”<sup>19</sup>

### Battle challenges jurisdiction

At trial, Battle challenged the indictment against him by arguing that the federal government lacked jurisdiction to try him for the murder. He contended that Georgia lacked the authority to cede its property to the United States in the first place and that, as a result, the United States lacked jurisdiction over the construction site.

Judge Speer rejected Battle’s argument. To begin with, he noted that the state of Georgia for its part believed it was authorized to cede its own property (and the jurisdiction over it) to the federal government, because the 1885 statute enacted by the General Assembly was titled: “An act to provide for the ceding of jurisdiction to the United States to and over a certain lot of land in the city of Macon, Bibb county . . . when the United States government shall acquire title thereto, for the purpose of erecting a public building thereon.”<sup>20</sup> Judge Speer also noted that the U.S. Supreme Court had in previous decisions approved the cession of state property to the federal government for purposes of pursuing federal objectives. Battle relied on a U.S. Supreme Court decision in which it had been held that the authority of a state to cede property to the federal government did not extend to ships of war but instead “only to what is in nature fixed territorially.” Judge Speer thought this argument silly, asking: “Is not the corner of Third and Mulberry streets fixed?”<sup>21</sup> He answered his own question with heavy sarcasm: “It would be very difficult for any one [*sic*] to move it, I imagine.”<sup>22</sup>

Judge Speer was similarly unmoved by the fact that the state had reserved to itself “the power to exercise its process there,” because that reservation was only, in the words of Judge Speer, “for the reason that [Georgia] does not want a public building to be a refuge for criminals.” Judge Speer observed:

If a man who commits a crime flees to a public building the police, sheriff, or deputy sheriffs can go there to seize him. There are no horns of the altar which he can take hold of there. The officers of the state can follow and take possession of him. But where a man commits a crime in that territory, the only place that has jurisdiction to try him is a court of the United States, provided the Congress of the United States has enacted legislation denouncing such a crime, and giving the court jurisdiction to try it.<sup>23</sup>

Judge Speer summarized the logic of his decision this way: First, the U.S. Constitution granted Congress the exclusive power to legislate concerning the erection of forts, magazines, arsenals, dockyards and other needful public buildings; second, Congress had enacted a statute criminalizing murder on federal properties in furtherance of its constitutional authorization; third, the U.S. Supreme Court had “ratif[ied] and acknowled[ed]” the federal government’s authority to accept and exercise jurisdiction over lands ceded to it by the states; and finally, the Georgia legislature had passed a statute “making [Congress’s authority] applicable to the particular lot in question here.”<sup>24</sup> In Judge Speer’s view, the question posed by Battle’s jurisdictional challenge “is no longer debatable.”<sup>25</sup>

In what was likely a feigned lament, Judge Speer concluded his order by stating: “I wish very much that it were in my power to hold otherwise, and transfer this weighty and important case to my brother of the state court, but this I have no power to do. The law is plain, and I must perform, as far as falls to my lot, the duty which the Constitution and laws impose upon me.”<sup>26</sup>

Judge Speer overruled the demurrer. Battle was convicted of Berry’s murder.

### Justice Holmes deals a blow to Battle

Battle appealed his conviction to the U.S. Supreme Court<sup>27</sup> where he renewed his argument that the federal court lacked jurisdiction to try him for Berry’s murder. Taking a somewhat different tack than he had before Judge Speer, Battle argued that, even if the U.S. Constitution authorized Congress to criminalize murders committed on federal property, the statute under which he was charged and convicted did not “extend to this case.”

In relevant detail, the statute at issue provided that “[e]very person who commits murder . . . [w]ithin any . . . place or district of [the] country, under the exclusive jurisdiction of the United States . . . shall suffer death.”<sup>28</sup> A separate statute authorized the United States courts to exercise exclusive jurisdiction over the prosecution of such murders.<sup>29</sup>

In considering Battle’s statutory argument, Justice Oliver Wendell Holmes, writing for a unanimous Court, noted that “[i]f the language of the Constitution is wide enough to authorize the purchase of land for a postoffice and courthouse, and the acceptance of a grant of jurisdiction, there is no reason for taking the language of the statute in any narrower sense.”<sup>30</sup> Justice Holmes therefore construed Battle’s challenge to the statute as a challenge to the constitution itself.<sup>31</sup> But that argument was doomed by history and precedent.

Justice Holmes first pointed out that “[t]he crime was committed upon land bought by the United States in

the city of Macon, on which it was building a postoffice and courthouse, and over which the state of Georgia had ceded jurisdiction.<sup>32</sup> To that factual observation he then added a basic legal proposition: "There can be no doubt of the power of Congress to purchase land within a state for postoffices or courts, by consent of the legislature of the state, and to exercise exclusive jurisdiction over the same."<sup>33</sup> That proposition stemmed from the authority conferred on Congress by Article I of the U.S. Constitution to erect "other needful buildings" on lands purchased by the United States from, and with the consent of, the state legislatures.<sup>34</sup> Justice Holmes found it obvious that "[p]ostoffices are among the 'other needful buildings' whose erection is contemplated by Article I. For that reason, the Court concluded that Battle's jurisdictional argument "come[s] many years too late."<sup>35</sup> Battle's conviction was affirmed.<sup>36</sup>

### The building opens to a crowd

At long last, on Friday, August 7, 1908, the new post office and federal building was opened to the public. The newspaper reported that many people who had not been following the progress of the construction "went mechanically to the old one-story [temporary] structure for stamps, money orders or mails, only to meet with a rude rebuff or happy reminder, for the old front door was securely barred."<sup>37</sup> The newspaper reported on "the sensation experienced when the interior of the new building was viewed" and on "the expressions of approbation on every side from admiring visitors."<sup>38</sup> Those who worked in the building were described as having "happy, relieved look[s]" on their faces. Included "among the many remarks passed during the day" were that the new building was "Very beautiful"; "Just lovely"; and a "Fine business."<sup>39</sup> A "continuous stream of visitors" passed through the building on opening day, "whether they had business to transact within the handsome walls or not."<sup>40</sup> According to the newspaper, "[o]ne not knowing the occasion would have sworn that a free exhibition or free lunch was on inside."<sup>41</sup>

All departments of the post office were up and running by 9 a.m. — the money-order department, registered-letter department, stamp window and delivery window. The newspaper noted that Ben Jones "deserves the honor of being the first individual in Macon to receive a registered letter from the new postoffice" and added that Jones' letter "brought good news too — an offer from Mr. W.A. Huff of \$100 to be given toward the State fair that Macon expects to have in the coming fall."<sup>42</sup> In one of history's nice ironic twists, you will recall that Jones was the prominent Maconite who vigorously resisted the demolition of the original federal building — and the one who sought President Theodore Roosevelt's direct intervention in the matter.

The newspaper noted that the post office's change from its temporary quarters (where it was housed for nearly three years) to the new building "was effected with the same regularity and preciseness which becomes all Government affairs, and was attended with no delay."<sup>43</sup> The new government building sprung to life by 6 a.m., well before the doors were open to the public. As reported by the newspaper, "the lights were turned on and the public could view the interior to a still greater advantage. The effect made on the polished marble walls and ornamental friezes by the incandescent lights in frosted globes, was resplendent and magnificent."<sup>44</sup>

The raising of the American flag featured prominently in the grand opening. Or, as the newspaper put it: "Old Glory was not forgotten yesterday and played a conspicuous part in Opening Day. Postmaster Edwards gave the order and for the first time since the death of the lamented Ex-President Cleveland, the Stars and Stripes were changed from half-mast and floated triumphantly over the Federal Building."<sup>45</sup> Of the observers that day, the newspaper reported: "They came in bunches and were bunched closely together. When they left a smile was to be seen in every face."<sup>46</sup>

### Federal court moves in

It was not until a few months later that the federal court would assume its new home in the federal building. Judge Speer had been at his vacation home in Mount Airy during the fall, and the newspaper reported that "[u]ntil Judge Speer returns to the city today, it will not be known just when the regular terms of court will be convened." But the newspaper added that "[t]he federal court will conduct its deliberations in the new postoffice building for the first time" very soon, and the new quarters were expected to make "the holding of court . . . facilitated to a marked degree."<sup>47</sup>

Court was held in the new building for the first time on Nov. 16, 1908. As the newspaper mentioned in a fairly inconspicuous and brief article on that day: "Judge Speer has returned from Mount Airy and is ready to begin work on the large docket of civil and criminal cases."<sup>48</sup>

The federal building would see additional expansion and renovation projects through the years. In fact, it is undergoing the first of a multiphase renovation at the time of this writing. But none of those projects has been accompanied by the kinds of contentious debates that surrounded the building's original construction at the turn of the 20th century.

On Jan. 20, 1972, the Interior Department's National Park Service placed the building on its National Register

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## A Forgotten Story, Continued

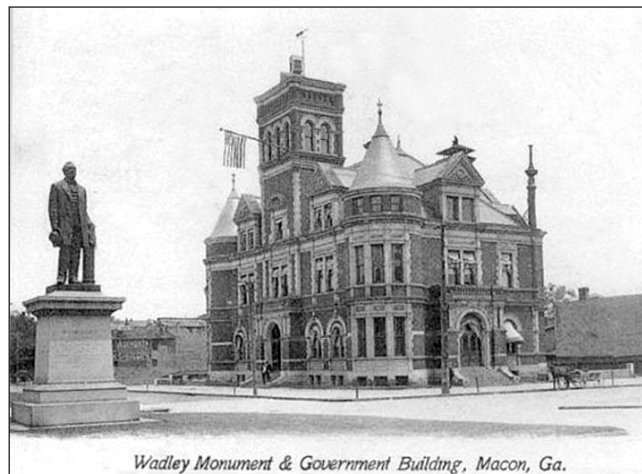
of Historic Places. Twenty-five years later, at the urging of community members and local political officials, Congress named the federal building in honor of one of the finest and most courageous federal judges of the twentieth century — William Augustus Bootle — who presided there from 1954 to 1981. The congressional enactment reads:

The Federal building and United States courthouse located at 475 Mulberry Street in Macon, Georgia, shall be known and designated as the 'William Augustus Bootle Federal Building and United States Courthouse'.<sup>49</sup>

In the end, the long-ago promise made by the one of the Treasury Department architects to Rep. Charles Lafayette Bartlett came true. He said, "I promise to give Macon a magnificent public building, one that will be a credit to your city."

It is magnificent — a credit indeed.

- 1 *The Twice-A-Week Telegraph*, Jan. 18, 1907.
- 2 *Id.*
- 3 *Id.*
- 4 *Id.*
- 5 *The Twice-A-Week Telegraph*, May 17, 1907.
- 6 *Id.*
- 7 *Id.*
- 8 *Id.*
- 9 *Id.*
- 10 *Id.*
- 11 *The Twice-A-Week Telegraph*, May 17, 1907. The newspaper sanitized the exchange; this was 1907, after all.
- 12 *The Twice-A-Week Telegraph*, May 17, 1907.
- 13 *Id.*
- 14 *Id.*
- 15 *Id.*
- 16 *Id.*
- 17 *Id.*
- 18 *The Twice-A-Week Telegraph*, May 21, 1907.
- 19 *The Twice-A-Week Telegraph*, May 17, 1907.
- 20 *United States v. Battle*, 154 F. 540, 541 (1907).
- 21 *Id.*
- 22 *Id.*
- 23 *Id.* at 541-42.
- 24 *Id.* at 542.
- 25 *Id.*
- 26 *Id.*
- 27 *Battle v. United States*, 209 U.S. 36 (1908).



A comparison of the first and second federal buildings, from the same vantage point on Mulberry Street.



A pre-1950s view of the federal building showing the wing added in 1917, during the building's first major renovation.

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28 Rev. Stat. § 5339. The death penalty was not automatic, however, because Congress provided in a separate statute that, in death-penalty cases, “the jury may qualify their verdict by adding thereto ‘without capital punishment.’” Act of January 15, 1897 (29 Stat. 487). And if the jury returned a verdict so qualified, then “the person convicted shall be sentenced to imprisonment at hard labor for life.” *Id.* Battle was not sentenced to death.

29 Rev. Stat. § 711: “The jurisdiction vested in the courts of the United States in the cases and proceedings hereinafter mentioned, shall be exclusive of the courts of the several States.” One of the “hereinafter mentioned” categories of cases was “all crimes and offenses cognizable under the authority of the United States.” *Id.*

30 *Battle*, 209 U.S. at 38.

31 In Holmes’s words: “The argument, although ostensibly directed against the statute, must embrace the Constitution.” *Id.* at 38.

32 *Id.* at 37.

33 *Id.*

34 U.S. Const. Art I, §8, cl. 17: “The Congress shall have Power . . . To exercise exclusive Legislation in all Cases whatsoever, . . . over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.”

35 *Battle*, 209 U.S. at 38.

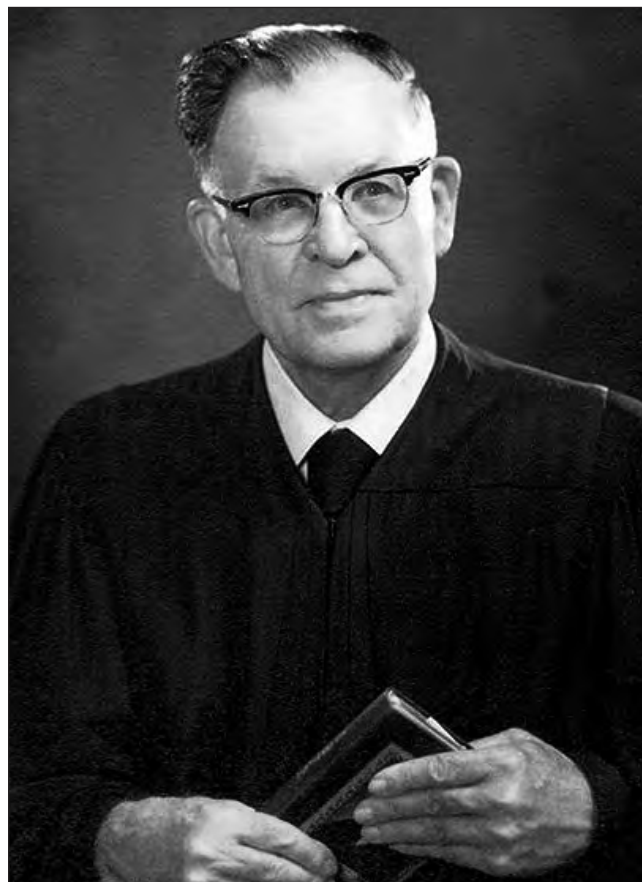
36 Battle pressed other arguments in the Supreme Court as well. He argued that Judge Speer erred when he refused to charge the jury on justifiable homicide, but the Court concluded that “[t]here was no evidence of such a case” and that the jury was therefore authorized to conclude “that the defendant made an intentional and unjustified assault of such a kind that the probable consequences were obvious; an assault with a deadly weapon, that either directly caused Berry’s death, or brought it about by his inevitable fall.” *Id.* And Battle argued that Judge Speer erred when he interrupted a racist statement made by Battle’s lawyer to the jury—Judge Speer told Battle’s lawyer “to make an argument that did not tend to degrade the administration of justice”—but the Court rejected this contention too, concluding that, given the explicitly racist nature of the argument, “[t]he interruption [by Judge Speer] was fully justified.” *Id.* at 39.

37 *The Macon Daily Telegraph*, Aug. 8, 1908.

38 *Id.*

39 *Id.*

40 *Id.*



The namesake of Macon’s federal building and courthouse: Judge William Augustus “Gus” Bootle.

41 *Id.*

42 *Id.*

43 *Id.*

44 *Id.*

45 *Id.*

46 *The Macon Daily Telegraph*, Aug. 8, 1908. For insightful information about the architectural features of the federal building, interested readers should visit the website of the General Services Administration. See <https://www.gsa.gov/historic-buildings/william-augustus-bootle-federal-building-and-us-courthouse-macon-ga> (visited February 4, 2018).

47 *The Macon Daily Telegraph*, Nov. 14, 1908.

48 *The Macon Daily Telegraph*, Nov. 16, 1908.

49 Pub. L. 105-163 (Act of March 20, 1998).



# Retirement reception honors Judge Mark A. Pizzo

By Leonard H. Gilbert and Jacqueline Simms-Petredis

The former ceremonial courtroom in the Tampa Division of the Middle District of Florida was the setting for the portrait and retirement reception for United States Magistrate Judge Mark A. Pizzo. Sponsored by the Federal Bar Association, the reception took place on July 25, 2018, in what is now the ballroom of the Hotel Le Méridien Tampa.

Jacqueline Simms-Petredis, president of the Tampa Bay Chapter, welcomed an overflowing crowd of judges and other guests.

Dana Kanfer, Judge Pizzo's longtime law clerk, spoke first:

Judge Pizzo's public service career began in 1978, and he now has 40 years of public service. I've been lucky to have served as Judge Pizzo's law clerk for 20 of his 23 years as a United States magistrate judge. I became a law clerk to avoid having to present to a room full of judges and lawyers.

In any event, I am honored to do so and want to share some of the attributes that make Judge Pizzo a success – ones that humility prevents him from publicizing. My guess is that you, his colleagues and friends, have already witnessed these firsthand.

One, Judge Pizzo, you are a talented communicator.

Your ability to express yourself, orally in court and in writing, in your reports and orders, is consistently impressive. You have a keen ability to ask litigants (and law clerks) the right questions at the right time. Oftentimes resulting in a reframing or narrowing of the issues presented, sometimes causing an "Aha moment," and occasionally resulting in a settlement.

Your talent extends to your personal affairs– your children and law clerks alike know that the art of letter writing is certainly not a lost one. Thanks to your advice, more than a handful of your law clerks memorialize the



A portrait of United States Magistrate Judge Mark A. Pizzo was presented at the conclusion of the program on July 25.



ages and stages of their children's lives through handwritten letters to them.

Two, Judge Pizzo, you are a creative problem solver.

As a mediator – you've encouraged lawyers and parties to think outside the box, to consider nonmonetary solutions to their claims and defenses.

On the bench – you ask litigants early on about jury instructions or how they plan to prove the elements of their allegations, surprisingly, things not contemplated prior to your questions.

With your staff – when approached by a certain law clerk 18 years ago (me) about the possibility of working part-time and sharing the law clerk job with another law clerk, you ventured where few before you had ventured.

Three, Judge Pizzo, you are a

mentor and a friend.

Like the characteristics already mentioned, here you excel both on and off the bench, professionally and personally. During my 20 years as your law clerk, your chambers' staff have answered phone calls and opened doors over and over for judicial colleagues, family members, lawyer friends, nonlawyer friends, court employees, former co-workers, former law clerks and countless others. You are always generous with your time and your advice to those seeking your counsel, whether it be a legal matter, personal matter, medical issue, career transition or, really, just about life.

In a recent letter you wrote to me, you shared with me a lesson you learned from your parents: that the quality of one's life is measured by love given and love received.

Collecting the RSVPs for this event and now looking around this room, the quality of your life is immeasurable.

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**About the authors:** Leonard H. Gilbert is the immediate past president of the Eleventh Circuit Historical Society. He is a partner in the Tampa, Florida, office of Holland & Knight LLP. Jacqueline Simms-Petredis is the president of the Tampa Bay Chapter of the Federal Bar Association. She is a partner in the Tampa office of Burr Forman.

## Retirement reception honors Judge Mark A. Pizzo, continued

Clearly, you now have shared this with your two successful children, Greg and Nicki, your two grandsons, your 19 law clerks and your law clerks' 38 children, whom you affectionately call your "grand law clerks."

Congrats on your retirement, and I look forward to serving as your law clerk while you are in recall status.

*Judge Steven D. Merryday, chief judge of the Middle District, shared his recollections and appreciation of Judge Pizzo:*

Judge Merryday began his remarks with a description of how he met Judge Pizzo through Judge William Terrell Hodges. Judge Hodges asked if he knew Mark Pizzo, and he did not. Judge Hodges replied that Mark Pizzo was a public defender, and he was convinced Pizzo might become dispirited and discouraged, saying it was hard for someone this good to lose that often!

As usual, Judge Hodges was right. Mark Pizzo was good, very good.

And he never became dispirited or discouraged — at least for very long — and he caught the attention of every judge before whom he appeared, whether as a federal defender or, later, as an assistant United States attorney. As a result, the first time he made himself available for selection as a magistrate judge, we grabbed him. And, I am delighted to report we have never let him go.

One of the duties of the chief judge of a district is to assemble and advise the merit selection panels that recommend to the district judges several candidates to serve as a magistrate judge. The district judges interview the candidates and make a selection. Not long ago, a merit selection panel was chosen to select a successor to Magistrate Judge Tom McCoun. Joseph Swanson of Carlton Fields was chair of the committee. That same committee chose five nominees to succeed Judge Pizzo.

This merit selection panel met for the first time in the judges' conference room on the seventeenth floor of the courthouse. Mr. Swanson asked if I would appear at the beginning of the meeting, greet and thank the panel on behalf of the court, discuss with the panel the duties of a magistrate judge and the qualifications that the judges thought most important in a magistrate judge, and answer the panel's questions about the selection process, among other things.

I appeared before the panel the morning they were to interview about 15 applicants and to select five for an interview with the district judges. For about 30 minutes, we talked back and forth. As the allotted time drew to an end, Mr. Swanson asked me if I could leave the panel with a distinct and memorable impression of what they should look for as they interviewed the applicants. I answered that the job of a merit selection panel can be encapsulated very handily. I handed Mr. Swanson Judge Pizzo's report and recommendation in *United States v. Aisenberg*, in which

he recommended quashing any evidence arising from an invalid surveillance warrant. And I handed Mr. Swanson Judge Pizzo's report and recommendation in *Kingdom of Spain v. Odyssey*, in which he recommended awarding to the Kingdom of Spain more than \$600 million in silver lifted from the bottom of the ocean near Cadiz, Spain, by the defendants.

I said, "Mr. Swanson, all that you and this fine panel need to do is find someone with the will, the courage, and the intellect to conceive and compose orders such as these. I commend these orders to the attention of each one of you. The lawyers will admire the careful and precise analysis of the governing law. The laypersons will read this and immediately understand what the judge is ruling and why and will find no confusing clutter or mind-numbing legal jargon or other junk. All we need is another person who can do this. Good luck." Despite the imposing burdens, the panel succeeded admirably in the search.

During the years after his selection as a magistrate judge, I came to know Mark Pizzo very well and to admire him greatly. We worked together on scores, I assume on hundreds, of cases, far too many to recall or recount, some great and some small, some easy and some difficult, some involving life and others involving death. We have discussed in depth the challenges of judging, of lawyering and of living.

I have found him unfailingly sound and reasonable, invincibly good-spirited and optimistic, unvaryingly understanding and forgiving of the frailties and foibles of others (although much less forgiving of his own), and constantly generous with his time, his attention and his patience. If he has some shameful flaw or some unwholesome failing, his 20 years or so in the same courthouse with me has yielded not one jot or tittle of evidence to betray its presence.

And, speaking from the vantage of a chief judge, I hurriedly add that he never complains, never sounds a reckless alarm, and never speaks ill of his neighbors. In other words, he is a courteous and amiable colleague.

What he has done during these 23 years of service is what he swore to do when he affirmed his oath of office on May 22, 1995: He has "faithfully and impartially discharged and performed all the duties incumbent upon him as a magistrate judge under the Constitution and laws of the United States."

Mark, on behalf of the court and the public, thank you for a job splendidly well done, and thank you for your friendship and counsel, on matters public and private.

The program concluded with the presentation of a portrait of Judge Pizzo and a few remarks by him.

The event was a wonderful celebration of Judge Pizzo's great career and service to the Middle District of Florida.

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