

THE ORAL HISTORY

OF

**LARRY J. MCKINNEY
SENIOR DISTRICT COURT JUDGE
of the
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA**

AS TOLD TO

**TIM A. BAKER
MAGISTRATE JUDGE
of the
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA**

2009

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF INDIANA
3 INDIANAPOLIS DIVISION
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7 OFFICIAL REPORTER'S TRANSCRIPT OF
8 THE ORAL HISTORY OF JUDGE LARRY J. MCKINNEY
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10 INTERVIEW BY MAGISTRATE JUDGE TIM A. BAKER
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12 MAY 4, 2009
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18 Court Reporter: Laura Howie-Walters, CSR
19 Official Court Reporter
20 United States District Court
21 46 East Ohio Street
22 Room 217
23 Indianapolis, Indiana 46204
24

25 PROCEEDINGS TAKEN BY MACHINE SHORTHAND
TRANSCRIPT PRODUCED BY ECLIPSE NT COMPUTER-AIDED TRANSCRIPTION

1 MAGISTRATE JUDGE BAKER: This is May 4th, 2009. I'm
2 Tim Baker, and we are sitting here in the chambers of
3 Judge Larry J. McKinney to sit down and find out a little bit
4 about him. So it's my pleasure to ask you a few questions
5 here. Of course, we need to start at the beginning; and so
6 that's where we'll start.

7 You were born in South Bend, correct?

8 JUDGE MCKINNEY: I was. I was.

9 MAGISTRATE JUDGE BAKER: 1944?

10 JUDGE MCKINNEY: July the 4th, 1944, 11:30 at night.
11 I almost missed the 4th of July, which would have been a very
12 unpleasant thing because I was 12 years old before I finally
13 learned that my dad wasn't telling me the truth when he told
14 me all that celebration was just for me. Being born on the
15 4th of July starts one's life out with a pretty good
16 self-image.

17 MAGISTRATE JUDGE BAKER: In fact, you did think that
18 when the fireworks would go off, right?

19 JUDGE MCKINNEY: I did, in fact.

20 MAGISTRATE JUDGE BAKER: How did you figure out that
21 wasn't true?

22 JUDGE MCKINNEY: Well, it finally dawned on me when
23 I was about 12 or maybe earlier that I wasn't the main star in
24 the constellation. It took awhile.

25 MAGISTRATE JUDGE BAKER: Some people don't realize

1 that until later in life.

2 JUDGE McKINNEY: I know it. I know it. You need to
3 realize that certainly before you find yourself invested with
4 the powers of the judiciary.

5 MAGISTRATE JUDGE BAKER: And we'll get to that.

6 For the record here, why don't you state the names
7 of your parents.

8 JUDGE McKINNEY: Lawrence McKinney is my dad; and
9 Helen McKinney, who's been gone since June of '85, is my
10 mother.

11 MAGISTRATE JUDGE BAKER: And what was your mom's
12 maiden name?

13 JUDGE McKINNEY: My mother's maiden name was Byers.
14 Her father was Ed Byers, and he was the principal of a couple
15 junior high schools over in the Terre Haute area. He was the
16 Clerk of the Session at the Presbyterian Church in Terre Haute
17 for 30 some years in a row and would often speak from the
18 pulpit.

19 MAGISTRATE JUDGE BAKER: That was her father?

20 JUDGE McKINNEY: Her dad.

21 MAGISTRATE JUDGE BAKER: How about your dad's dad?

22 JUDGE McKINNEY: My dad's dad, James F. McKinney, I,
23 and his wife, Hazel, were my dad's mom and dad. My
24 grandfather was a railroader, worked for the railroad till
25 they forced him to retire when he was 72; and then he worked

1 for a private contractor till he was 89. And his wife, Hazel,
2 was a very small, diminutive women who was a wonderfully kind
3 person.

4 I met a man not long ago, Joe Quill, who's a lawyer
5 here in Indianapolis; and he came into my office when I was
6 down in Franklin one day, and he wanted to know if I was
7 related to Jim and Lawrence McKinney. It turned out Joe had
8 been reared next door to Dad and his brother, Jim, and his
9 sister, Jean, and his other brother, George, when they lived
10 across from Tech on Washington Street.

11 And he had all these things to say about my
12 grandmother that I did not know about what a wonderfully kind
13 and generous woman she was.

14 MAGISTRATE JUDGE BAKER: That's a nice surprise to
15 get.

16 JUDGE MCKINNEY: It was. What really intrigued me
17 was when Joe started talking, he got tears in his eyes
18 remembering those days. Joe had a brother who had polio, and
19 so he couldn't run and play in the football games that
20 everybody else played in; but he had a reputation of being a
21 terrific tackler even so. If you even got close to him, he
22 would somehow manage to nail you.

23 I asked my dad and Uncle Jim both about him, and
24 they both had fond memories of Joe.

25 MAGISTRATE JUDGE BAKER: Well, now, let's see, you

1 have two brothers?

2 JUDGE McKINNEY: I do. My brother, Ed, who's been a
3 junior high school teacher all of his life, he's retired. He
4 lives in Redmond, Oregon, with his wife, Judy; and all three
5 of his kids are still around the area. One of them lives in
6 Redmond. His youngest son lives in Redmond. His oldest lives
7 in another community there in Oregon. His daughter lives in
8 Washington.

9 MAGISTRATE JUDGE BAKER: And Ed was a teacher of
10 some renown?

11 JUDGE McKINNEY: Ed was a teacher of some renown.
12 He was, in fact, the Oregon State Teacher of the Year the year
13 that George Herbert Walker Bush was inaugurated. And all 50
14 of the Teachers of the Year were given a free weekend in
15 Washington, D.C. for one of those inaugural parties. They all
16 went to the inauguration, and it was something.

17 Dad and I went out to Oregon to see the
18 presentation. It was wonderful. And Ed gave speeches for a
19 year, and he was just spectacular. He really was.

20 MAGISTRATE JUDGE BAKER: And your other brother
21 lives in Alaska?

22 JUDGE McKINNEY: Mike lives in Homer, Alaska. He
23 works for an airline that -- an airline that just flies from
24 Homer to Anchorage because Homer is right on Halibut Bay, and
25 a lot of fishermen and hunters come down. That's all they do

1 there. He really enjoys Alaska.

2 MAGISTRATE JUDGE BAKER: How long has he lived
3 there?

4 JUDGE MCKINNEY: Gosh, I think 10 or 12 years now.

5 MAGISTRATE JUDGE BAKER: Does he hang out with
6 Judge Easterbrook at all?

7 JUDGE MCKINNEY: No, he doesn't. I mentioned that
8 to him, though.

9 You know, I like talking to Judge Easterbrook about
10 his Alaska experiences. He has, in fact, said to me that
11 "When you go out next time, look me up." So I'm going out in
12 August, and I might look up Judge Easterbrook.

13 Judge Easterbrook is not a hunter, as you know.
14 He's a hiker, and he really enjoys those solitary walks I
15 think. He was telling me he's a big Sherlock Holmes fan, too.

16 MAGISTRATE JUDGE BAKER: Is that right?

17 JUDGE MCKINNEY: Yeah.

18 MAGISTRATE JUDGE BAKER: Now, you have a sister who
19 passed away a few years ago?

20 JUDGE MCKINNEY: I do. My sister was a beautician,
21 probably among the more independent members of the family.
22 When she left South Bend, she got on a bus, went to Portland,
23 Oregon, without a job.

24 MAGISTRATE JUDGE BAKER: What was her name?

25 JUDGE MCKINNEY: Ann, and she --

1 MAGISTRATE JUDGE BAKER: Why'd she get on a bus and
2 go to Portland, Oregon?

3 JUDGE McKINNEY: She'd had enough of living in the
4 South Bend area. She'd worked in Elkhart for awhile, and she
5 just decided it was time for her to strike out. So she got a
6 driver's license, and she must have been about 30 when she did
7 that. She got a job at a big department store and worked
8 there almost until she passed away actually. She had a heart
9 problem.

10 MAGISTRATE JUDGE BAKER: What year was that? That
11 was fairly recently, three or four years ago?

12 JUDGE McKINNEY: Yes, it was about four years ago.

13 MAGISTRATE JUDGE BAKER: Do you remember your
14 parents' dates of birth?

15 JUDGE McKINNEY: My mother was born February the
16 16th in 1912, and my father was born on August the 28th of
17 1913. Dad, of course, is still alive and with us, pretty
18 sharp.

19 MAGISTRATE JUDGE BAKER: And we'll talk a little bit
20 about him. Did you say your mom passed away in 1985?

21 JUDGE McKINNEY: She did. She had Parkinson's
22 disease, a terrible, terrible disease at that time. It's like
23 dying once a day for two or three years. It's a horrible way
24 to go.

25 MAGISTRATE JUDGE BAKER: She was sick for a while

1 before she died?

2 JUDGE MCKINNEY: She was. She was. In fact, they
3 didn't know what she had back in about 1980; and she knew
4 there was something going on. So I had represented the
5 Johnson County Hospital when I was in practice, and I knew a
6 lot of doctors. So I had her come down to Franklin and be
7 checked over by doctors whom I respected, and they diagnosed
8 her with Parkinson's.

9 And then in another year or two, she and Dad moved
10 to Edinburgh so we could keep a closer eye on them. They
11 lived on an old farm out in the country in the South Bend
12 area. They closed up the place, and we moved them down to
13 Edinburgh.

14 MAGISTRATE JUDGE BAKER: You were already on the
15 Johnson Circuit Court when she passed away?

16 JUDGE MCKINNEY: I was. I was, but once you get --
17 I got elected, as you know, in the fall of '78. In 1979, the
18 Reno Judicial School was beginning to be recommended for all
19 new judges. And it was an eight-week course, which would have
20 made it very difficult for any new judge anywhere to actually
21 go and be gone for eight weeks. But I had made arrangements
22 to do it, and I thought -- I'd even bought some extra clothes.
23 That was when I brought Mom down to Johnson County. I never
24 did go. I never have been to the Reno Judicial College.

25 MAGISTRATE JUDGE BAKER: You might want to go before

1 you finish up your career. You don't want to miss that.

2 JUDGE McKINNEY: Yes. Later, the Johnson County Bar
3 used to say that they'd give me a thousand dollars if I
4 promise never to go to some judicial seminar because Johnson
5 County judges were famous for going to judicial seminars and
6 coming back with really horrible ideas on how to administer
7 their courts.

8 MAGISTRATE JUDGE BAKER: So do you think that the
9 fact that you did not go contributed mightily to your judicial
10 approach?

11 JUDGE McKINNEY: I would say it had absolutely no
12 effect on my judicial approach.

13 MAGISTRATE JUDGE BAKER: Now, how did the McKinneys
14 end up in South Bend?

15 JUDGE McKINNEY: Well, my grandfather as a
16 railroader -- as you might imagine, they traveled around a
17 lot. Dad went to high school or went to school in
18 Jeffersonville, Indiana; Richmond, Indiana; Columbus, Indiana;
19 and Terre Haute. And they moved quite a bit. My grandfather
20 would get a better position, and they would move. The last
21 move was from Terre Haute to Columbus, Indiana.

22 There was a huge headline in the paper when they
23 moved because Dad's younger brother, Jim, was one fine Hoosier
24 basketball player. And it was newsworthy for Uncle Jim to
25 move from Terre Haute to Columbus High School. I think this

1 was about '34, '35, something like that.

2 That team went to the state high school finals, the
3 team that Jim played on; and he took that team to the finals
4 when they used to take all 16 teams to the finals, and then
5 they would play all 16 of those games at Butler.

6 MAGISTRATE JUDGE BAKER: So this is your dad's
7 brother?

8 JUDGE MCKINNEY: Yes, his younger brother.

9 MAGISTRATE JUDGE BAKER: He made it to the finals in
10 high school?

11 JUDGE MCKINNEY: Well, he made it to the finals.
12 Then there were 16 teams. I think they won one of those
13 games. Maybe they made it down to the final eight or maybe
14 even the final four. I don't recall.

15 But I do remember one thing for which Uncle Jim was
16 famous, and that was -- basketball was changing a great deal,
17 and Uncle Jim was given credit for being the first to follow
18 his shot in anticipation of the rebound.

19 It used to be you'd sit out there and take the
20 two-hand set shot or the one-hand set shot. There were not
21 that many jump shots. He was the first guy to shoot and then
22 streak around and grab the rebound and lay it up.

23 MAGISTRATE JUDGE BAKER: That would make you a good
24 player if others were not doing that at that time.

25 JUDGE MCKINNEY: Exactly.

1 MAGISTRATE JUDGE BAKER: Now, basketball runs in
2 your family a little bit because your cousin --

3 JUDGE McKINNEY: Yeah, my cousin, Tom. That's Uncle
4 Jim's son. Tom was an excellent basketball player at Columbus
5 High School. He was a great coach at Bloomington North. His
6 Bloomington North team won the last state finals before they
7 divided up into so many different classes.

8 MAGISTRATE JUDGE BAKER: Class basketball?

9 JUDGE McKINNEY: Class basketball.

10 MAGISTRATE JUDGE BAKER: Isn't he in the Hall of
11 Fame?

12 JUDGE McKINNEY: He is.

13 MAGISTRATE JUDGE BAKER: The state Basketball Hall
14 of Fame?

15 JUDGE McKINNEY: He is, as well he should be.

16 MAGISTRATE JUDGE BAKER: But we were talking about
17 how the McKinnys got to South Bend, and you talked about
18 traveling a lot.

19 JUDGE McKINNEY: Oh, right. Dad had traveled a lot
20 as a child. He went to college at Indiana State and took a
21 two-year teacher's course and then went to Petersville,
22 Indiana, which is right outside Columbus, where he first
23 taught in a one-room school house when it was K through 12;
24 just he and the kids, K through 12. That building is still
25 there. I drive by it now and again.

1 Anyway, he got married then. My mother was from
2 Terre Haute, and he met her while he was over at Terre Haute
3 getting his second two years in for his undergraduate degree.
4 He got a job at Studebaker Elementary School teaching science
5 in about 1940, right around 1940, 1939. It was before -- he
6 got that job before World War II's draft started. So he
7 started there at elementary school coaching basketball and
8 teaching science. That's how we got to South Bend.

9 MAGISTRATE JUDGE BAKER: As a child growing up in
10 South Bend, did you go to public school?

11 JUDGE MCKINNEY: Yes. Yes. The only private
12 schools in South Bend at the time were Catholic schools, but
13 that was it. It was either the public school or the Catholic
14 school. We went to Lincoln Junior High School, K through 12,
15 which is still there.

16 MAGISTRATE JUDGE BAKER: Which high school?

17 JUDGE MCKINNEY: Went to John Adams High School. By
18 the time my younger brother, who is seven years younger than I
19 am -- by the time he went to high school, they had changed the
20 district. So he went to Riley, even though we lived in the
21 same place. We went to Adams, my older brother and I did; and
22 my sister did.

23 MAGISTRATE JUDGE BAKER: And you would have
24 graduated in '62?

25 JUDGE MCKINNEY: '62.

1 MAGISTRATE JUDGE BAKER: For the record, the year I
2 was born.

3 JUDGE MCKINNEY: Is that right? Well, it was a fine
4 year then.

5 MAGISTRATE JUDGE BAKER: What were your activities
6 in high school?

7 JUDGE MCKINNEY: Oh, I played basketball in high
8 school until the very short-sighted and ill-prepared coach let
9 me go when I was a junior in high school. I'm sure he regrets
10 it yet today.

11 But when I got let go, he wanted to know if I wanted
12 to be the manager of the high school basketball team. My
13 brother had been the manager for four years, and he
14 distinguished himself. I, of course, said, "Not on your
15 life."

16 But the chemistry professor asked me if I would be
17 in charge of the roster board, which was a large configuration
18 on the upper side of one of the walls of the gym. It had the
19 roster for both teams printed on a piece of cardboard about 3
20 feet by 6 inches. And that gave me a key to the printing room
21 underneath the stage, which turned out to be a source of
22 wonderful adventure.

23 MAGISTRATE JUDGE BAKER: What type of adventure was
24 that?

25 JUDGE MCKINNEY: Mess around times. Well, you

1 could -- with a key to that, you could go there when you
2 wanted to. When the other team was late in giving you the
3 roster, then you'd be called in for emergency service
4 regardless of what was going on in your classroom. So I
5 managed to miss a couple of academic events because of that.

6 Then I was on the student council for a couple of
7 years, and it was an altogether very good place to have gone
8 to high school.

9 MAGISTRATE JUDGE BAKER: Any particular jobs that
10 you held in high school?

11 JUDGE MCKINNEY: Well, not only did I print that
12 stuff. I think I also had a job for a year in the laundry
13 room.

14 MAGISTRATE JUDGE BAKER: At the high school?

15 JUDGE MCKINNEY: The high school laundry room.

16 MAGISTRATE JUDGE BAKER: That sounds like pretty
17 hazardous duty.

18 JUDGE MCKINNEY: Well, of course it was; but it was
19 a good source of extra cash, and I kind of enjoyed it.

20 MAGISTRATE JUDGE BAKER: Just curious. Did you
21 attend your high school prom?

22 JUDGE MCKINNEY: I did. I went to the junior prom
23 and the senior prom. I had a wonderful time.

24 MAGISTRATE JUDGE BAKER: Now, you went to MacMurray
25 College?

1 JUDGE McKINNEY: I did.

2 MAGISTRATE JUDGE BAKER: How did you end up there?

3 JUDGE McKINNEY: Well, I can say this because I
4 suspect she's been gone for several years and nobody would
5 know her.

6 Her name was Agnes Burns. Miss Burns was our
7 counselor at high school, and she'd been there for years; and
8 she was my older brother's counselor. She told my other
9 brother, my older brother who now has two master's degrees,
10 that he just didn't have what it took to go to college; and
11 she recommended that he not go.

12 And I think she felt terrible about that after he
13 went off to college and did pretty well in school. He went
14 two years to IUSB, then on to IU at Bloomington.

15 MAGISTRATE JUDGE BAKER: This is the teacher?

16 JUDGE McKINNEY: This is my brother.

17 MAGISTRATE JUDGE BAKER: The teacher?

18 JUDGE McKINNEY: The teacher, right; my brother, the
19 teacher, who as I say, an Oregon Teacher of the Year was
20 advised not to go to college because he just didn't have it,
21 which interestingly enough is the same thing that the
22 counselor at Tech told my dad who retired as the Assistant
23 Superintendent of Schools in South Bend.

24 So Miss Burns, I think, was feeling badly. So she
25 let me emcee the Tuesday morning programs for senior

1 counseling when I was a senior. The school would bring in all
2 the military and various people around town that wanted to
3 talk to senior boys about jobs and education, and I would
4 introduce them.

5 I got to do a lot of public speaking at that time.
6 It's when I first discovered the power of the public speaker.
7 I was assigned to be the individual who introduced a speaker
8 for a school-wide program, and my job was to introduce the
9 person and then when he was done, dismiss everyone.

10 Well, that's when I got my first taste of the power
11 of the speaker because I introduced this man; and it dawned on
12 me that nobody in that whole auditorium -- and there must have
13 been, oh, probably 12- to 1,500 kids in there -- they could
14 not go back to their classes, including the teacher and the
15 principal -- they could not go back to their classes until I
16 said so. You know, that's heady stuff.

17 So the guy gets -- he finishes talking; and then I
18 walk slowly over to the microphone. I took five minutes to
19 summarize his points and then dismissed everyone. And you
20 should have seen them. I had kids sitting on the edge of
21 their seats in the front row just waiting to race to their
22 classes. And the longer and the more they bent over and the
23 more inertia taking them toward the door, the longer my
24 summation took. I really enjoyed that.

25 MAGISTRATE JUDGE BAKER: Do you still utilize that

1 technique in court?

2 JUDGE McKINNEY: You know, I don't have to anymore.
3 It's just my nature. I mean, I'm not even conscious of it.

4 MAGISTRATE JUDGE BAKER: I think this was leading to
5 how you ended up at MacMurray College.

6 JUDGE McKINNEY: Right. So Ms. Burns, I told her I
7 wanted to go to college; and we had a track system at Adams.
8 We had the advanced placement and the semi-advanced placement
9 and the ordinary classes and then a slower class and I think
10 an even slower class than that. I had some advance placement
11 classes.

12 So she sent me -- she called me and said, "There's a
13 man here from MacMurray College who is recruiting kids." His
14 name was Shaddick, in fact. I spoke to him about 15 minutes.
15 I'd been looking at Denison, which is where Senator Lugar
16 went, because there was a Denison yearbook in the study hall
17 room.

18 I was just thinking about my mom and dad because
19 they both went to Indiana State, and I thought it would be
20 nice if I went to Indiana State. I think the tuition to
21 Indiana State at that time was about seven or eight hundred
22 dollars. The tuition at MacMurray was 2,000.

23 So dad and I went on a visit of the two campuses
24 and --

25 MAGISTRATE JUDGE BAKER: What city is that in?

1 JUDGE McKINNEY: Jacksonville, Illinois, which is 40
2 miles west of Springfield, Illinois.

3 I went over there; and I said, "Well, this is the
4 place for me." So that's where I went.

5 MAGISTRATE JUDGE BAKER: What was your major?

6 JUDGE McKINNEY: I majored in Government. I say
7 that, and I have to qualify that because we had a professor at
8 MacMurray whose name was Wells; Dr. Wells.

9 Dr. Wells was an emeritus professor from Bryn Mawr;
10 and he had been, in fact, a part of the U.S. government's
11 effort during the Weimar Republic in the rebuilding of Germany
12 after World War II. I thought he was an absolutely wonderful
13 scholar, and I took every class I possibly could.

14 He taught in the Government Department. The other
15 professor in the Government Department, in my adolescent view,
16 was not quite of that caliber; and he was also my counselor.
17 So I was to go see him, and then we would work out my programs
18 so that I would be able to have the credits that I needed to
19 graduate.

20 Well, in the four years that he was my counselor, I
21 never went to see him. And I took pretty much what I wanted
22 to take, and I took every one of Dr. Wells' classes. I only
23 took one class from the other professor, all of whose classes
24 were required for a government major.

25 In the meantime, I was a class short of a major in

1 Philosophy and a class short of a major in Economics. I just
2 took all these wonderful classes. That's what I enjoyed about
3 MacMurray College so much was that they had so many classes
4 that just seemed to me to be something I'd like to take.

5 So when I graduated, two days before the graduation
6 ceremony, I get a call from Dr. McClintock, who said, "You
7 don't have enough credits in Government to graduate." And I
8 said, "You know, I've been admitted to the Indiana University
9 Law School." He said, "Yeah, I know that." And I said, "So
10 whose fault is it that I don't have these credits since you've
11 been my counselor for the last four years, and we don't
12 have -- I don't think I can recall one meeting we ever had."

13 "Well, don't worry about it," he said. "We've
14 waived that requirement," for which I will be forever grateful
15 because it was, in fact, my responsibility to see that I had
16 the required classes. It was not Dr. McClintock's. It was
17 mine. I should have known it, and I didn't pay attention to
18 it; and I should have. So as a consequence, I probably have
19 your basic general studies degree.

20 MAGISTRATE JUDGE BAKER: Are you sure you have a
21 degree?

22 JUDGE MCKINNEY: I have it. I do.

23 MAGISTRATE JUDGE BAKER: You've got a sheepskin to
24 prove it?

25 JUDGE MCKINNEY: I do. I have a sheepskin. I

1 participated in the graduation ceremony along with my wife, as
2 you know.

3 MAGISTRATE JUDGE BAKER: Well, that was my next
4 question. I understand you met your wife in college?

5 JUDGE McKINNEY: I did. I did. I met Carole.

6 I had two jobs at MacMurray. I was a dorm counselor
7 for three years; but during my first year, the house father of
8 my dorm was the head of the Spanish Department, and he needed
9 people to work in the language lab. In those days, the
10 language lab was a place that you went, picked out a booth
11 with earphones; and the operator of the lab had a huge console
12 in front of him with reel-to-reel tape recorders and record
13 players.

14 So the professor would send over a reel-to-reel with
15 the lessons on it, and the operator would put the lesson on it
16 and then could put it in any of the booths where anybody sat.
17 I met a lot of the students that way.

18 One day, a friend of mine and I were sitting there;
19 and in walks this cute little girl -- I can remember this to
20 this day -- this cute little girl with a freckled face and big
21 smile. She told me she wanted her Spanish lesson, and I was
22 so taken with her that I did not put on the right lesson. I
23 put on the wrong lesson of all things, which she didn't tell
24 me that until after we'd been married actually.

25 MAGISTRATE JUDGE BAKER: Do you remember what you

1 put on?

2 JUDGE McKINNEY: It was just the chapter, yes.

3 MAGISTRATE JUDGE BAKER: Spanish, but the wrong one?

4 JUDGE McKINNEY: It was one she'd already done.

5 Carole was a wonderful student, and she was always up to date.

6 Her history notes actually got my dorm through freshman

7 history. So that's where we met, and then we started dating

8 in the spring of 1963. We got married in the fall of '66.

9 MAGISTRATE JUDGE BAKER: What was the date of
10 marriage?

11 JUDGE McKINNEY: The date of the marriage was
12 August 19th, 1966.

13 MAGISTRATE JUDGE BAKER: If I asked you this, I
14 apologize. What was her maiden name?

15 JUDGE McKINNEY: Her maiden name was Lyon, L-Y-O-N,
16 which oddly enough meant that we couldn't name our children by
17 using her maiden name as their middle name because nobody
18 would trust a lawyer with a middle name like that.

19 MAGISTRATE JUDGE BAKER: So you married her shortly
20 after you graduated from MacMurray?

21 JUDGE McKINNEY: We did, yes. In fact, I asked her
22 to marry me on the day of graduation.

23 MAGISTRATE JUDGE BAKER: I presume she said yes?

24 JUDGE McKINNEY: She did say yes, to my amazement.
25 She did say yes.

1 MAGISTRATE JUDGE BAKER: And you both graduated in
2 '66?

3 JUDGE McKINNEY: Yes, and she was enrolled in the
4 psychology graduate school at IU; and I was enrolled in the
5 law school.

6 MAGISTRATE JUDGE BAKER: Now, I'm wondering about
7 other people you went to college with who may be notable. Did
8 Jim Voyles go to MacMurray?

9 JUDGE McKINNEY: Jim didn't go to MacMurray. Jim
10 went to Illinois College, which is the college on the other
11 side of Jacksonville. Illinois College is an excellent school
12 and famous for being first -- I believe it's the first college
13 in Illinois. Really some famous graduates from Illinois
14 College.

15 And it was a rival of MacMurray's. I met Jim my
16 freshman year. Main Hall was the women's dormitory for
17 freshmen women at MacMurray. I know this sounds silly today,
18 but they only had freshman women in that dorm; and their hours
19 were ten o'clock during the week. I think it was ten o'clock.
20 No, it was nine o'clock during the week and twelve o'clock on
21 the weekends. The girls had to be back in the dorms at those
22 hours.

23 As I was saying goodnight to Carole one night, Jim
24 was standing right next to me saying goodnight to one of the
25 MacMurray College freshmen girls. I think Jim is a year ahead

1 of me, and we struck up a conversation. He was a very
2 pleasant guy. He was one of their football players. He was a
3 very bright guy, I thought. I enjoyed the relationship.

4 MAGISTRATE JUDGE BAKER: Is there anybody who you
5 went to college with that's practicing law in this area now?

6 JUDGE MCKINNEY: No.

7 MAGISTRATE JUDGE BAKER: Not that you're aware of?

8 JUDGE MCKINNEY: No. No, there isn't. We see them.
9 There are a couple of lawyers in town who went to Illinois
10 College, but I didn't -- they're not in my time at all.

11 MAGISTRATE JUDGE BAKER: Where were you married?

12 JUDGE MCKINNEY: We were married in St. Mary's
13 Catholic Church in Eldorado, Illinois, named after its
14 founders, the Elders and the Reeds.

15 MAGISTRATE JUDGE BAKER: Who was your best man?

16 JUDGE MCKINNEY: My best man was Dick Elliott, who
17 was a high school friend of mine. Dick had gone to IU and
18 distinguished himself in college. He became a Catholic
19 priest, and was stationed in Santiago, Chile, for years.

20 His specialty in high school was Spanish. He used
21 to teach Spanish, even in high school. Then I think he was
22 third in the national Spanish contest. When I was in high
23 school, we had the opportunity to participate in a national
24 contest on language proficiency every year.

25 MAGISTRATE JUDGE BAKER: So when you graduated from

1 MacMurray, you already knew you had been admitted to law
2 school?

3 JUDGE McKINNEY: Yes.

4 MAGISTRATE JUDGE BAKER: What caused you to apply to
5 law school?

6 JUDGE McKINNEY: Well, I had -- I thought that it
7 would be a good idea to go to law school ever since I was in
8 the eighth grade, and the eighth grade teacher had us write an
9 essay on what we thought we'd like to be when we grew up. I
10 read some things about being a lawyer, and I thought life as a
11 lawyer would be rewarding.

12 Now, that's the official explanation; but the truth
13 of it is, since we're telling the truth here, I used to walk
14 downtown in South Bend around the square; and I'd see the
15 lawyers' names on the windows. And I thought, "Wow, what a
16 wonderful thing to be so much a part of your community and so
17 well respected by your community that you could actually put
18 your name on the window and that would make a difference to
19 somebody."

20 So I thought -- my goal was that I wanted to have my
21 name on the window. Isn't that silly?

22 MAGISTRATE JUDGE BAKER: You could do that without
23 going to law school.

24 JUDGE McKINNEY: Yeah, I knew you could. I could
25 have been a dentist or an optometrist or something like that,

1 but just something about the esteem in which lawyers were held
2 and their ability to make things go smoother for folks that
3 intrigued me.

4 And also, I think my dad said to me one time when we
5 were having a disagreement about something -- oh, I know. He
6 asked me what my grades were, and I told him that I hadn't
7 made all As that semester or. And this was, I think, seventh
8 or eighth grade, something like that. And he said, "Well,
9 I'll say this for sure. If you got graded for being a smart
10 ass, you'd get an A." I had to acknowledge that was probably
11 true.

12 I suppose I heard more than one teacher say
13 something to me, "You know, you always seem to want to
14 continue the discussion" or "You want to argue" or this or
15 that. "You'd make a good lawyer." That's probably not a very
16 good impetus to start you on a law degree; but I did have
17 those conversations, I have to admit.

18 MAGISTRATE JUDGE BAKER: Those can be good qualities
19 in a lawyer.

20 JUDGE MCKINNEY: They can be.

21 MAGISTRATE JUDGE BAKER: Were you the only lawyer
22 from your family as far as you know?

23 JUDGE MCKINNEY: Yes, I was. Tommy's younger
24 brother, Joe, is a lawyer, and teaches at Ball State actually;
25 and his specialty is education law. He's written textbooks

1 and is quite renowned in his area.

2 MAGISTRATE JUDGE BAKER: You would have gone to law
3 school before him?

4 JUDGE McKINNEY: Oh, yeah, before he did. Yeah, I
5 was the only lawyer. I used to refer to myself as the black
6 sheep of the family because they were all teachers.

7 MAGISTRATE JUDGE BAKER: Why did you pick
8 Bloomington?

9 JUDGE McKINNEY: I picked Bloomington because Carole
10 had already been admitted to the Bloomington Psychology
11 Department. In fact, as we talked about it, we wanted to go
12 to the same graduate schools; and she had gotten admitted to
13 Vanderbilt, and Vanderbilt had not admitted me. I got
14 admitted to a school in Colorado that she wasn't very
15 interested in.

16 We both got admitted to IU, and she thought that
17 would be a good place for her; and I thought that would be a
18 good place for me. That was the only reason.

19 MAGISTRATE JUDGE BAKER: So you were married. You
20 went to law school. She went to -- I'm sorry, what was she
21 studying?

22 JUDGE McKINNEY: Psychology.

23 MAGISTRATE JUDGE BAKER: Psychology? And where did
24 you live?

25 JUDGE McKINNEY: Well, my older brother had just

1 finished a master's in the spring of '66. And Ed and his wife
2 weren't overwhelmed with cash, and the only one of us that was
3 working was Ann. So Ann bought a trailer for \$2,500. Ed
4 lived in it for the year that -- for two years that -- it took
5 a year and half, I think, to get his master's at IU.

6 So I asked her if we could live in that while we did
7 our three years of graduate school, and she said yes. So we
8 had a \$30 a month lot rent and lived there the first year on
9 Carole's \$179 assistantship and what I could make in the
10 summer painting houses. That's why we didn't get married till
11 August so I could have the whole summer to paint.

12 And the second year, she got a fellowship. So we
13 had 200 bucks. It was awesome. We felt flush.

14 MAGISTRATE JUDGE BAKER: Where was the trailer park?

15 JUDGE McKINNEY: The trailer was in Webb Trailer
16 Court in Smithville, Indiana, just a short ride up 37 to
17 Bloomington. We started out in a 1958 Chevy Bel Air that soon
18 bit the dust because it used more oil than it used gas.

19 Then my father-in-law bought me, for \$300, a 1962
20 Chevy II stick shift, which worked for the next two years.
21 Paid 300 for it and sold it for 150.

22 MAGISTRATE JUDGE BAKER: That's a good deal.

23 JUDGE McKINNEY: Yes, it was. Never had a better
24 deal about a car since.

25 MAGISTRATE JUDGE BAKER: Did you move closer to

1 campus at some point?

2 JUDGE McKINNEY: No, we lived there for our three
3 years. It wasn't too far away.

4 MAGISTRATE JUDGE BAKER: So that was 1966 to 1969?

5 JUDGE McKINNEY: Right.

6 MAGISTRATE JUDGE BAKER: Kind of a tumultuous time
7 in America and on college campuses.

8 JUDGE McKINNEY: In '68, I remember watching the
9 convention in '68 on the television sets in the house we were
10 painting. Tom Michael and I, who was a law student --

11 MAGISTRATE JUDGE BAKER: Who?

12 JUDGE McKINNEY: Tom Michael. Tom was a law student
13 and practiced law in Marion for years. He's gone now, but he
14 and I painted houses in the summer.

15 MAGISTRATE JUDGE BAKER: And what was that like
16 being on especially the Bloomington campus in '68, '69?

17 JUDGE McKINNEY: Well, it was interesting. When I
18 got there, Ted Najam, who is now the Indiana Court of
19 Appeals -- Ted was the president of the student body. I can't
20 remember exactly, but I think that would have been --

21 MAGISTRATE JUDGE BAKER: Wasn't Tim Morrison down
22 there about that time?

23 JUDGE McKINNEY: You know, I don't know. I didn't
24 know Tim. I think I'm older than Tim. But I think Najam was
25 the president of the student body from '66 to '67 -- I think

1 that's right -- or '67-'68.

2 Anyway, he was the last president of the student
3 body of IU to wear a tie and a coat everywhere he went because
4 in the tumult -- I don't know why I remember this since I
5 can't remember where my car is parked -- Guy Laughton got
6 elected president. Guy went around with the fatigues and his
7 Army jacket with the beard and anti-establishment. Guy is now
8 a lawyer, too.

9 MAGISTRATE JUDGE BAKER: Yes.

10 JUDGE McKINNEY: But anyway, he was the
11 anti-establishment candidate that got elected on the
12 power-to-the-people kind of ticket. But that transition was
13 going on right before our very eyes.

14 You know, when I was in college from '62 to '66,
15 there was no pot and not much student unrest. One kid brought
16 some pot back from New York. He was kicked out before he got
17 out of the car.

18 And there's just the whole difference between '62 to
19 '66 and '66 to '70. It really was amazing to see the changes
20 on the college campuses from '66 to '70. The students took a
21 more active role from government to curriculum.

22 MAGISTRATE JUDGE BAKER: And was Dunn Meadow still
23 active?

24 JUDGE McKINNEY: It was just beginning. It was just
25 getting fired up. It's the difference between when I was

1 there and my younger brother was there. I'm seven years older
2 than Mike. And when Mike was there, it was a completely
3 different place. Dunn Meadow was where people lived and
4 rallied and did all those anti-establishment things.

5 MAGISTRATE JUDGE BAKER: Rumor has it that you spent
6 a lot of time in the law school library, maybe even had a job
7 there?

8 JUDGE MCKINNEY: I did, yeah. One of the other law
9 students who lived across from my brother in the trailer park
10 when I moved in, his name was Dev Weaver; and Dev lived there.
11 he was just the nicest guy. There was an opening in the law
12 library; and because he liked Ed so much, I think he hired me
13 because he liked Ed.

14 Betty Lebus was the librarian, and she hired me; and
15 that allowed me to make some extra money and actually be in
16 the law library a lot.

17 I remember when Harry Gonso led the Fighting
18 Hoosiers to the Rose Bowl, I didn't get to see many of those
19 games because I worked in the library on Saturday.

20 MAGISTRATE JUDGE BAKER: You were there. You were a
21 student. It was '67, wasn't it?

22 JUDGE MCKINNEY: Yeah, right, I think it was '67.

23 MAGISTRATE JUDGE BAKER: So you would have been a
24 first-year law student?

25 JUDGE MCKINNEY: Yeah, I was there in the fall of

1 '66.

2 MAGISTRATE JUDGE BAKER: So that would be -- well,
3 if you started in the fall of '66 and they went -- that was
4 the fall of '67?

5 JUDGE McKINNEY: Right, but it could have been '66.

6 MAGISTRATE JUDGE BAKER: So it was the next year.

7 JUDGE McKINNEY: Right, the next year. But that was
8 a great job. Not only did you learn everything there was
9 about the library. You just met a lot of people. It is a
10 wonderful thing in law school for a law student to meet as
11 many other students as possible for future networking.

12 MAGISTRATE JUDGE BAKER: And you did go to law
13 school with a lot of people who have made a name for
14 themselves.

15 JUDGE McKINNEY: I did.

16 MAGISTRATE JUDGE BAKER: Name a few.

17 JUDGE McKINNEY: Oh, Max Hittle, who's the secretary
18 now of the Indianapolis Indians who had a distinguished
19 career. Jim Strain has had a distinguished career in this
20 community. Bob Hulett has also had a distinguished career.

21 I saw today as I was swearing in new lawyers that
22 Gary Kemper was in the audience, who's a distinguished
23 Plaintiff's lawyer from Madison, Indiana.

24 Several judges were in my class. Joe Van Bokkelen,
25 who is now on the district bench in the Northern District, he

1 and I were in law school at the same time. There are a couple
2 of Fort Wayne judges who were in that class. The judge who
3 distinguished himself for so long over in Lebanon, Indiana.
4 Oh, his son now is the judge over there.

5 MAGISTRATE JUDGE BAKER: Right. I can't remember
6 who that is.

7 JUDGE MCKINNEY: I can't remember his name, but I
8 was in his class. And there are several others. Dave Woods
9 came out of our class and went over to Brown County and was
10 Circuit Court judge over there.

11 John Warner stepped right out of our class and
12 became a Circuit Court judge in Tell City. He didn't stay
13 long.

14 Richard Payne came right out of our class, maybe
15 practiced law for 20 minutes and became judge over in Hancock
16 County and distinguished himself in the course of his career.

17 MAGISTRATE JUDGE BAKER: A pretty notable class.
18 I'm sure there's many others.

19 JUDGE MCKINNEY: Yeah, there are. There are others.
20 If I had a list, their names would come to me.

21 MAGISTRATE JUDGE BAKER: That's all right.

22 Was there a professor or others in law school who
23 had an influence on you?

24 JUDGE MCKINNEY: I'd have to say of all of the
25 individuals I ever met who had the most influence on the way I

1 think or the way I process information that comes into my
2 brain is my dad. I cannot say that there is any law school
3 professor whose views did anything other than scare me to
4 death.

5 Jerome Hall. I had Jerome Hall for criminal law and
6 also took his class in jurisprudence; and he probably wouldn't
7 believe this, but I did learn a lot from him.

8 MAGISTRATE JUDGE BAKER: Did you have any jobs
9 during law school, any legal jobs?

10 JUDGE MCKINNEY: No, no. The first law office I
11 ever walked into was my own. No, I painted houses every
12 summer.

13 Oh, Harry Pratter. I forgot to mention Harry
14 Pratter. Harry is a wonderful professor. There was a
15 professor that taught Evidence. His name was Kenneth Hughes,
16 who was quite an interesting -- an excellent professor. And
17 Dan Hobson, who taught family law, I took his seminar.

18 MAGISTRATE JUDGE BAKER: Given the number of
19 divorces you presided over, it must have come in handy.

20 JUDGE MCKINNEY: Right. That's when I learned to
21 ignore the notion not to render these bonds asunder.

22 MAGISTRATE JUDGE BAKER: Were there any particular
23 accomplishments you had in law school that you were proud of?

24 JUDGE MCKINNEY: Oh, I don't think so. Just
25 survived law school. And I got to work in the law library,

1 and I met an awful lot of really fine individuals in every
2 aspect of the law school. I think that's probably it.

3 I've never been a very good writer, and I wouldn't
4 have written for the Law Review. But I have close friends who
5 did, et cetera.

6 MAGISTRATE JUDGE BAKER: Was it unusual then to be
7 married and going through law school?

8 JUDGE MCKINNEY: It was probably -- this is just a
9 guess, Tim; but I'd say it was maybe 40 percent of us were
10 married. Those were turbulent times for other than just
11 rebellion on the campus and those kinds of things.

12 The college class of '66 -- I think this is true --
13 was the last college class given a 2S deferment from the
14 draft. So that if you stayed with a C average in college, you
15 didn't get drafted; but if you dropped below a C, you would
16 get drafted.

17 And so the sign on the wall at MacMurray College
18 would be 4 C's or 1A. 1A was the highest draft status, for
19 those who don't know that.

20 Anyway, in law school, the class of '69 was the last
21 class that got a college -- that got a student deferment. So
22 the class of '70, the class of '71, both had individuals
23 drafted right out of that class. So everybody in my class
24 with any sense was already a member of the ROTC. Many of our
25 class graduated and then took their -- went to OCS right away.

1 I think I'm the only individual in that class --
2 there may have been others but I don't know -- who either
3 wasn't already in or didn't get drafted because most draft
4 boards took you right then as soon as you graduated in 1969.

5 The South Bend draft board, I inquired of them; and
6 they said they would wait to consider me until the first draft
7 lottery, and the first draft lottery was in the fall of '69.

8 So as I sat in the apartment with Carole listening
9 to the draft numbers, the most patriotic of birthdays came
10 about about 279. They notified me that they would not draft
11 me.

12 MAGISTRATE JUDGE BAKER: So you had no military
13 service.

14 JUDGE MCKINNEY: I have no military service except
15 for one. We were ordered to come to Indianapolis for
16 physicals; for military physicals. As it happened, I was
17 selected to be in charge of all these people. So I have this
18 commission where I actually had an office for the military.

19 MAGISTRATE JUDGE BAKER: Why were you selected to be
20 in charge?

21 JUDGE MCKINNEY: Because I was the oldest guy, all
22 these college kids and me. A couple of my -- well, several of
23 my law school friends all came up to the draft physical here
24 in Indianapolis.

25 I remember Bob Hulett was standing right behind me

1 in the draft. I think it was Bob because when we got to the
2 end -- and the last thing you did as you're standing there in
3 your socks -- the last thing we did was take a color
4 perception test. And I am color blind. So I missed all of
5 them but two.

6 So I think it was Bob who said, "So McKinney, are
7 you going to try that color-blind ruse on these guys?" And
8 the sergeant laughed and said, "Well, if he is, he's awfully
9 good at it."

10 MAGISTRATE JUDGE BAKER: Your first job out of law
11 school was with the Attorney General's office?

12 JUDGE MCKINNEY: It was. It was. To our amazement,
13 the Attorney General was hiring; and he didn't care what your
14 draft status was. He didn't care if you were just getting
15 ready to go.

16 MAGISTRATE JUDGE BAKER: Who was the attorney
17 general at that time?

18 JUDGE MCKINNEY: Theodore Sendak from Lake County.

19 MAGISTRATE JUDGE BAKER: This would have been 1969?

20 JUDGE MCKINNEY: 1969.

21 MAGISTRATE JUDGE BAKER: You started in 1970, didn't
22 you?

23 JUDGE MCKINNEY: No, I started with him in '69.

24 MAGISTRATE JUDGE BAKER: '69?

25 JUDGE MCKINNEY: So gracious to hire us. And he

1 hired -- I saw the picture. I found it in my garage the other
2 day. He hired seven of us. One --

3 MAGISTRATE JUDGE BAKER: Deputy attorney generals?

4 JUDGE MCKINNEY: Deputy attorney generals. And a
5 couple were 4F, a deferment from the draft, which he didn't
6 know. A couple got drafted anyway, and a couple decided to
7 teach in parochial schools.

8 At that time, teaching school brought a deferment
9 with it. A couple years in the Attorney General's office was
10 a wonderful way to start a legal career.

11 MAGISTRATE JUDGE BAKER: What was your starting
12 salary?

13 JUDGE MCKINNEY: I signed on as a law clerk for
14 \$7,200.

15 MAGISTRATE JUDGE BAKER: A year?

16 JUDGE MCKINNEY: Yeah. Carole started out as a
17 psychometrist for the city schools of Indianapolis. A
18 psychometrist is the individual who gives the various tests to
19 students for evaluation purposes. A teacher will say, "Well,
20 so and so here in class needs -- we need to know what their
21 capabilities are." And so the psychometrist would go and give
22 a battery of tests and interview the student. This is an
23 oversimplification of her duties.

24 So she made \$10,000. I made 7,200. So between us,
25 we made that 17,200.

1 Then when I got hired as a deputy attorney general
2 in '70, my salary went to 9,200. Of course, she was making
3 maybe \$11,000 at that time. And you could live here in
4 Indianapolis fairly cheaply by today's standards. We lived in
5 a brand-new apartment at 34th and Georgetown called Country
6 Square West. Nobody had ever lived in this apartment. It was
7 a one-bedroom apartment for \$135 a month.

8 Now, for \$145 a month, we could have had a
9 two-bedroom down the street; and for 155, you got a
10 two-bedroom with a pool and a washer and a dryer.

11 MAGISTRATE JUDGE BAKER: And in true McKinney frugal
12 fashion, you opted for the 135 a month?

13 JUDGE MCKINNEY: Exactly. We went for the 135 a
14 month. When I graduated from law school, I sold my car for
15 150 bucks. Carole had already been hired; and I had, too. I
16 bought a brand new 1969 Pontiac Tempest for \$2,900. And you
17 could afford things like that.

18 In those days, you could buy three cans of tuna for
19 a dollar. You could buy the Eckrich dried meat, three
20 packages of that for a dollar.

21 If you're tight enough, you could get one of those
22 to last for a couple of days. More than once we ran out of
23 money in law school by the end of the month and ate popcorn
24 for a couple of days.

25 I kept a journal of our expenses one year, and our

1 entire entertainment expense for one month was 35 cents. It
2 was a 25-cent Dairy Queen for me and a dime Dairy Queen for
3 Carole. Those were our expenses.

4 And I used to buy fuel oil by the five-gallon can
5 and would constantly run out. I remember the coldest day in
6 the history of Bloomington, we woke up in the morning; and we
7 didn't have any fuel left. I had to go get fuel. The door of
8 our trailer -- the door knob broke; and rather than -- because
9 I couldn't afford to get it fixed, I just carried it with me.
10 You couldn't get in the place if you didn't have the door
11 knob. We didn't need a key. We had the door knob.

12 MAGISTRATE JUDGE BAKER: But you only had one door
13 knob and two of you?

14 JUDGE MCKINNEY: Right.

15 MAGISTRATE JUDGE BAKER: So how did you square that
16 away?

17 JUDGE MCKINNEY: We always rode back and forth
18 together. We didn't have two cars. My father-in-law got
19 angry at us for not having a TV, so he brought over an old
20 black and white TV once. As one of my cousins was graduating,
21 he brought over this TV antenna, which we stuck in the ground
22 on a wet spring day. So I watched -- every Sunday, I watched
23 the Wild Wild West. That was the only TV show I watched.

24 MAGISTRATE JUDGE BAKER: Robert Conrad, is that --

25 JUDGE MCKINNEY: Yeah.

1 MAGISTRATE JUDGE BAKER: Robert Conrad? No, James
2 Conrad. I remember the Wild Wild West.

3 JUDGE McKINNEY: Yes.

4 MAGISTRATE JUDGE BAKER: Artemus Gordon?

5 JUDGE McKINNEY: Yes, and James West.

6 MAGISTRATE JUDGE BAKER: It was good. Now, just
7 for --

8 JUDGE McKINNEY: Oh, I did do -- in law school, I
9 did do the moot court and the mock trial. I did do both of
10 those.

11 MAGISTRATE JUDGE BAKER: Mock trial?

12 JUDGE McKINNEY: Mock trial, yes.

13 MAGISTRATE JUDGE BAKER: And moot court?

14 JUDGE McKINNEY: Right. And I've got to say this
15 about the mock trial. Joe Van Bokkelen, who is the judge in
16 the Northern District, was the defendant in a mock trial; and
17 it was a pot charge.

18 Another thing I discovered is that you couldn't have
19 convicted an IU student in front of an IU jury of a pot
20 charge. I was one of the prosecutors that had the opening
21 statement, and I learned not to finish up your opening
22 statement until you had walked all the way around and were
23 standing behind the table. When I finished, I was stuck in
24 the middle of the courtroom and felt like a idiot.

25 MAGISTRATE JUDGE BAKER: An important lesson in

1 trial preparation?

2 JUDGE McKINNEY: A very important lesson. And I
3 really appreciated the moot court. That was a lot of fun.

4 MAGISTRATE JUDGE BAKER: Just for historical
5 purposes, I was asking you about the time you started with the
6 Attorney General's office. It sounds like you had a clerkship
7 upon graduation.

8 JUDGE McKINNEY: I did.

9 MAGISTRATE JUDGE BAKER: And then became actually a
10 Deputy AG in 1970?

11 JUDGE McKINNEY: Right.

12 MAGISTRATE JUDGE BAKER: And there are other notable
13 folks that started at the AG's office?

14 JUDGE McKINNEY: Yes.

15 MAGISTRATE JUDGE BAKER: Sue Shields, for example,
16 comes to mind.

17 JUDGE McKINNEY: Yes. One of the reasons was in
18 those days, aside from the fact that he was the only one that
19 would hire me, in those days, it was an important thing for a
20 young lawyer to go to the prosecutor's office, go to the AG's
21 office, go to some public service group and get some
22 experience and make a public service contribution early, and
23 then go on with your professional life.

24 Very few times would you find an Attorney General or
25 Deputy Attorney General that had been there more than three or

1 four years. You found them; but as a general rule, they came
2 and went.

3 MAGISTRATE JUDGE BAKER: Any other folks you
4 remember who would be well known that started out back there?

5 JUDGE McKINNEY: Ron Gotshal, who became judge over
6 in Hancock County, started in there about the same time I did.

7 Lon Showley, who is as famous any basketball player
8 from Grass Creek, Indiana, who was on the Butler team that
9 upset Cazzie Russell's Michigan team, Lon was in that group.
10 And Lon is a very successful estate lawyer in San Diego and
11 has taught that subject at the law schools out there.

12 Ed Neal was in that group, and Ed has been a
13 distinguished lawyer here in town for years.

14 Frank Hanley, an African-American lawyer who was
15 there at that time, had a very successful career in the Social
16 Security area, as you probably know.

17 MAGISTRATE JUDGE BAKER: Which, if they had this,
18 which division or practice area --

19 JUDGE McKINNEY: Endsley was there at the time.

20 MAGISTRATE JUDGE BAKER: Who?

21 JUDGE McKINNEY: Endsley.

22 MAGISTRATE JUDGE BAKER: Oh, Patrick Endsley?

23 JUDGE McKINNEY: Patrick Endlsey.

24 MAGISTRATE JUDGE BAKER: A future magistrate judge?

25 JUDGE McKINNEY: Yes. He had worked for Attorney

1 General Dillon and was on his way out, but we crossed paths
2 about that time.

3 MAGISTRATE JUDGE BAKER: Also in the Circuit Court,
4 Marion Circuit Court?

5 JUDGE MCKINNEY: Right.

6 MAGISTRATE JUDGE BAKER: Were there divisions that
7 you would work in?

8 JUDGE MCKINNEY: Yes. Yes. That was one of the big
9 advantages I had when I went in as a clerk. The Attorney
10 General was sitting there, called me in and said, "I want you,
11 as part of your job, to interview all of the deputy attorney
12 generals; and I want to know what all of them do."

13 I and the General were probably the only people in
14 the whole office that knew what everybody did. So I had a
15 good idea of where everybody went and what their
16 responsibilities were.

17 Now, I may have mentioned to you my dad has always
18 been my mentor; and he told me once that in order to be
19 successful in life, you had to learn to like what everybody
20 else didn't like, which explains my affinity for patent law.
21 But the point at this time was there was an opening to
22 represent the Indiana Department of State Revenue.

23 Now, the thing that everybody wanted to do was --
24 all the new ones, all us of new ones, we wanted trial work.
25 So at the time, everybody wanted to be in condemnation work.

1 Also, a very important case was decided in 1969. A case
2 called Campbell versus the State was decided. That case
3 abrogated sovereign immunity.

4 So a whole new area of responsibility opened up for
5 the Attorney General's office: The representation of the
6 State of Indiana in tort litigation. Tom Mills, now a
7 Indianapolis south side lawyer, was among those who discharged
8 that responsibility.

9 So I and others wanted to do that, but I was
10 assigned the duty of representation of the Indiana Department
11 of Revenue. I worked with a man from Mooresville, Indiana,
12 whose name was Hugh Couch. Hugh had been a lawyer for years
13 and relatively successful, I think, in Mooresville. I worked
14 with him, also, and was supervised by Charles Rogers, who was
15 an assistant attorney general; and his expertise was taxes.

16 Charlie knew more statutes on taxes than anybody I
17 have ever known. He had, as you might suspect, the bigger
18 issues involving interstate commerce. He had argued many of
19 the cases involving interstate commerce in Indiana. So I got
20 to work in that area, and I enjoyed that a lot.

21 I say I'm not a real big fan of writing, but I wrote
22 a lot of briefs and tried to second chair a couple cases while
23 I was there.

24 Interestingly enough, one of the first cases I had
25 involved Amos-Thompson Veneer Company, which is and was -- I

1 don't think it is anymore -- the number one employer of
2 individuals in Edinburgh, Indiana.

3 Lawyers for Amos-Thompson filed for summary judgment
4 in the Johnson County Circuit Court, and we lost the case at
5 that level. It had to do with the shipment of logs interstate
6 and whether the State of Indiana could tax it.

7 As I said, I lost that case and then worked on the
8 appeal; and I actually got to argue the appeal before the
9 Court. I am pleased to recall that we prevailed on appeal.

10 MAGISTRATE JUDGE BAKER: In the Indiana Court of
11 Appeals?

12 JUDGE MCKINNEY: Yes. So not only was I involved
13 with a case against the number one employer in the city where
14 I've lived since 1971, but I also reversed the Johnson County
15 Circuit Court judge. And he wasn't -- he took those things
16 personally.

17 MAGISTRATE JUDGE BAKER: Who was that judge at the
18 time?

19 JUDGE MCKINNEY: It was Robert Young, the very
20 judge --

21 MAGISTRATE JUDGE BAKER: That you replaced?

22 JUDGE MCKINNEY: That I replaced, that's right.

23 MAGISTRATE JUDGE BAKER: Well, let's go on down that
24 road a little bit. You were with the Attorney General's
25 office until 1971?

1 JUDGE McKINNEY: 1971.

2 MAGISTRATE JUDGE BAKER: Then you opened up a law
3 office in Edinburgh?

4 JUDGE McKINNEY: Charlie Rogers said to me one
5 day -- he said, "Why don't you consider opening up an office
6 with me in Edinburgh? I'll stay with the Attorney General's
7 office, and we can see if we can develop a practice."

8 I said, "Well, what will we name it?" He said,
9 "Well, I tell you, we'll go to the golf course, the driving
10 range. Whoever hits the ball the furthest can be first on the
11 list," which I thought was really funny because Charlie had
12 been a lawyer for years, and there's no way it was going to be
13 McKinney and Rogers. I can just tell you that.

14 So I just said, "Well, Charlie, you can hit it
15 further than I can anyway. So we'll just go with Rogers &
16 McKinney." So he said okay.

17 Carole had just gotten hired at Franklin College.

18 MAGISTRATE JUDGE BAKER: In what capacity?

19 JUDGE McKINNEY: She was a hired in the Psychology
20 Department.

21 MAGISTRATE JUDGE BAKER: As a professor, a teacher?

22 JUDGE McKINNEY: As a teacher, as a professor. You
23 don't get hired right away as a professor, but she'd gotten
24 hired. So we were looking for a place closer to Franklin
25 other than Indianapolis. So I thought that Edinburgh would

1 fit the bill.

2 So we drove down to Edinburgh for the first time and
3 immediately got lost.

4 MAGISTRATE JUDGE BAKER: Was Charlie from Edinburgh?

5 JUDGE MCKINNEY: Charlie lived in Edinburgh.
6 Charlie was from Indianapolis. Charlie is a wonderful story
7 himself. His history is incredible. Charlie not only didn't
8 have a law degree. He didn't have a college degree. And I
9 think this is true. I don't believe he ever finished high
10 school either.

11 His father had a milk wagon route in Indianapolis
12 and died when Charlie was just a kid. Charlie took over the
13 route and ran that milk wagon till he got drafted into World
14 War II.

15 When he got out of World War II, he went over to see
16 Dean Small at the law school up here and said, "I think I'd
17 like to go to law school." Charlie had been an engineer, a
18 mechanic, an airplane mechanic. And the Dean said, "Well" --
19 was it Dean Small or Fransden? I can't remember which one it
20 was. Whichever one, it would have been in the late '40s. And
21 he said, "Well, where did you go to college?" And Charlie
22 said, "I never went to college." The Dean said, "Well, why
23 don't you take a college course or two and see how you do."

24 Charlie worked at Allison's. He worked nights at
25 Allison's and went to college. He took a year's course work.

1 He did very well, went back to see the dean and said, "I got
2 my year. Here's my grades." And the dean said, "Okay. We'll
3 accept you."

4 When you were a veteran in those days, doors opened
5 that don't open today; and rightly so I'd like to say. But
6 anyway, Charlie then went to law school and got his degree.

7 MAGISTRATE JUDGE BAKER: So you drive down to
8 Edinburgh to check it out?

9 JUDGE MCKINNEY: We drive down to Edinburgh to check
10 it out. We drive to Charlie's house; and Charlie owned this
11 big, beautiful, brick on the -- it's called Main Cross. It
12 was in the main part of town, on the main drag through town,
13 one of those classic big, old brick houses. It had been built
14 by one of the Edinburgh families. Actually, I think it had
15 servants' quarters in the basement, buzzers all around; and on
16 the top floor was a dance hall.

17 So anyway, we go down to see Charlie. Carole and I
18 went down there, and we made a wrong turn and ended up in just
19 the awfulest looking trailer park you ever saw in your life.
20 Carole looked at me, and I looked at her; and I said, "Is this
21 where we want to live?" We said, "We don't think so."

22 So finally, we got turned around to the right place;
23 and we got in front of Charlie's house, and we began to see
24 what a really nice community Edinburgh is.

25 Charlie and I are talking in his living room, and

1 I've got my 1969 Pontiac Tempest parked in front. As we're
2 sitting there chatting, all of a sudden, we hear this screech
3 and crash.

4 It's my first trip to Edinburgh, Indiana. I get
5 lost in this terrible trailer park; and then some kid runs
6 smack into my car, just smacks into the rear bumper. Charlie
7 and I run out to check. We both have our legal pads, and the
8 next thing you know, we've got his name.

9 After some administrative procedures, we ended up
10 holding his license pending his payment to me of the costs of
11 repair. Well, he never made any payment; and I gave him back
12 his license, long story short.

13 So the next time we went to Edinburgh, we went to
14 the downtown area and find a building where the phone company
15 used to be. It was a two-story building. It's got what could
16 have been an apartment upstairs.

17 The main part of the building was a live bait store.
18 So Charlie and I went up to see Bill Schaffer. Bill owned
19 that building. We worked out an arrangement with him for a
20 year of free rent, and Carole and I would live in that
21 apartment for a year; and we'd have our law office in that
22 building, and we wouldn't have any rent for a year. Our
23 responsibility was to convert this building into a law office
24 and an apartment. It is still an apartment building.

25 MAGISTRATE JUDGE BAKER: This is the same building

1 with the bait shop in it?

2 JUDGE MCKINNEY: This was the bait shop. This was a
3 bait shop when we got there.

4 So Charlie, who, as I said, was an airplane
5 mechanic, was very handy. Then we took the live bait tanks
6 off the wall; and when we got done with it, it had an American
7 symbol on the wallpaper, the nice veneer paneling wall, and
8 some really nice lawyer bookcases down one wall. The shelves
9 were stocked with books. It had a nice little desk and a
10 little chair for the secretary.

11 MAGISTRATE JUDGE BAKER: Did you do some of the
12 painting?

13 JUDGE MCKINNEY: Oh, yes. Yes. I did all the
14 painting. We hung the wallpaper, and we did all of that
15 stuff.

16 We had a bad day one day when we were nailing into
17 the wall and hit the water pipe that went upstairs to the
18 bathroom, and we had to repair that. That was fun.

19 Charlie was one of the most generous men I've ever
20 met. Charlie and his wife always had foster children. One of
21 his foster children was a cute little -- just a precious
22 little girl named Della. Della would come over and sit with
23 us while we worked. She wasn't a year old.

24 Just after we got the rug down, she just wet all
25 over this rug. I mean, she just soaked it. To this day, if

1 that rug is still in there -- and I don't know if it is or
2 not; but if it is, there's still a stain from that little
3 girl's effort.

4 The day before we opened the office, we had our
5 picture taken for the Tri-County Enterprises paper. We had
6 gotten my friend from South Bend, whose family lived right
7 across the road at the farm, Katie Zicker, to come down and do
8 the lettering on the window.

9 MAGISTRATE JUDGE BAKER: I was hoping we'd get that
10 story in here.

11 JUDGE MCKINNEY: Well, she did. And she did a great
12 job. The lettering clearly indicated the presence of a law
13 office and then my name and Charlie's name at the bottom. I
14 thought it was just great.

15 I come back the next day; and when the euphoria wore
16 off, I took a close look at the window. It looked like I had
17 the world's only "La Woffice." She had the "W" closer to the
18 "O" than she had to the "A." It didn't bother Charlie at all.

19 There was a little arm that came over the top of the
20 sidewalk, and he thought we needed to hang a sign up there.
21 So we took a piece of plywood and cut it out and around so it
22 would look pretty nice. Then we got some framing, a picture
23 frame, and framed the sign.

24 Then we got some fixtures and screwed them into the
25 plywood sign; and we hung it up. And I tell you, we were so

1 proud. Then a puff of wind came along and just blew that
2 thing down in about 30 seconds. I never did put it back up.
3 I've still got that sign at home. I was just quite proud of
4 the sign that lasted 30 seconds.

5 MAGISTRATE JUDGE BAKER: Well, it still lasted this
6 many years?

7 JUDGE MCKINNEY: Yes. I've still got it. I
8 certainly do.

9 MAGISTRATE JUDGE BAKER: And you never changed the
10 "La Woffice" sign?

11 JUDGE MCKINNEY: No, I didn't change the "La
12 Woffice" sign. I sure didn't. The last day before we opened
13 it, the last thing I did was to paint the front step of this
14 old building.

15 As I'm painting, as I'm putting the final touches on
16 it, a local Edinburgh man walked up to me. He can see it says
17 "La Woffice" on it. It's got my name on it. And he says "You
18 hang that wallpaper in there?" I said, "Yeah." He said, "Did
19 you put up that paneling in there?" I said, "Yeah." He said,
20 "You hang that light fixture?" "Yeah, I did." "You paint all
21 that?" I said, "Yeah, I did." He said, "I've got some work
22 in my kitchen that needs to be done." He said, "What do you
23 think about that? Do you think you could come down and take a
24 look at that?"

25 I thought to myself, "This is another one of life's

1 crossroads." I could have gone and remodeled his kitchen.

2 MAGISTRATE JUDGE BAKER: So your first fee was doing
3 wallpapering and other work as opposed to legal work?

4 JUDGE MCKINNEY: Yeah. And then I could have stayed
5 in town and just been a regular factotum around town and made
6 enough money to make a living, I suppose.

7 MAGISTRATE JUDGE BAKER: Well, you handled some
8 cases. What kind of cases did you handle in private practice
9 then?

10 JUDGE MCKINNEY: Oh, in Edinburgh, I did -- I made
11 most of my living doing title searches and writing abstract
12 opinions and running abstracts. I'd go down to Columbus and
13 up to Franklin and over to Shelbyville and just do abstracts.

14 When I was doing an abstract one day in the Johnson
15 County Recorder's Office, I met Rob Schafstall, who had come
16 to Johnson County, I think, a year after I did. Rob had a
17 really good abstract business because he was in with John
18 Cutsinger. John was a wonderful man and lawyer of some
19 standing in the Franklin area for years.

20 Rob had said to me that in the plan -- in the
21 long-range plan of Johnson County, when Judge Young stopped
22 being Judge, Rob was going to be judge. In those days, if you
23 wanted to be an office holder -- it may still be true today.
24 I think it probably is. If you wanted to be an office holder
25 in Johnson County, you had to declare yourself as a

1 Republican.

2 So Rob was a Republican, and he was going to be the
3 next judge. And I said this off the top of my head. I said,
4 "Well, you know, Rob, if you don't want to do that, if the
5 time comes you don't want to do it, you know, I think I would
6 enjoy that."

7 So he said okay. This was probably 1973, maybe
8 early '74. I closed my Edinburgh office in '74 and went to
9 work with Jim Sargent in Greenwood, Indiana. It was Sargent &
10 McKinney until I got elected in the fall of '78.

11 But that was the first time, the first conversation
12 I had had with anybody about ever being judge because I never
13 really thought I wanted to because the responsibility is huge;
14 and the daily decision-making process seemed awfully difficult
15 to me because I did divorces and --

16 MAGISTRATE JUDGE BAKER: Right. And I want to ask
17 you all about that. But Schafstall, he was actually city
18 judge in Franklin later?

19 JUDGE MCKINNEY: Yeah, he was, and still is. He's
20 been the only city judge ever in the history of Franklin.

21 MAGISTRATE JUDGE BAKER: His son was in front of me
22 not too long ago, and I about fell out of my chair when they
23 said Rob Schafstall was there. It turned out to be his son.

24 JUDGE MCKINNEY: Yeah, Rob, Jr. was an intern in my
25 office.

1 MAGISTRATE JUDGE BAKER: But I'm not exactly sure
2 why he didn't become judge, although the rumor was there are
3 too many wills. And when it was time to probate them, he was
4 going to be a fairly well-to-do man?

5 JUDGE MCKINNEY: It's true. Fate is so strange. In
6 April of 1978, I'd gone to Arizona with the family. My dad
7 and mom were at a trailer out in Apache Junction. We had
8 taken Josh. He had his second birthday out there. We had a
9 wonderful time.

10 We come back and we find out that John Cutsinger had
11 died. As I said, John was beloved of many people. And he had
12 written -- I say this facetiously, but he had written a will
13 for everyone in the county.

14 That was the year of the election, and the May
15 primary was coming right up; and Rob decided that it would be
16 silly to leave all that business. They had a very good title
17 business, too, as I said. He said it would be silly to leave
18 that to be judge, and was I still serious?

19 MAGISTRATE JUDGE BAKER: So did he call you and ask
20 you?

21 JUDGE MCKINNEY: Yes. He called me and asked me if
22 I was serious about it; and I said, "You know, I would." I
23 didn't know the county chairman from Adam. You know, I was
24 naive enough to think that if I said that to Rob, something
25 would happen. So I met with the County Chair.

1 MAGISTRATE JUDGE BAKER: Who was that at that time?

2 JUDGE MCKINNEY: His name was -- oh, shoot. It will
3 come to me. You'll have to add that -- I can't remember the
4 County Chair's name -- because he was a very important figure
5 in my career, and I can't even remember the name.

6 His name was Oren Wright, and Oren Wright was a
7 shepherd. He raised sheep. He was a renowned judge of sheep
8 at fairs around the country. He had a great reputation in
9 that arena.

10 I talked to him; and he said, "You know, you live in
11 Edinburgh. You practice in Greenwood. You're in Franklin all
12 the time. Okay. That sounds good."

13 So the next thing I know, I'm out behind my house
14 with my neighbor, Carl Crider, having my picture taken so I
15 can slap it on a poster and put up my poster around for the
16 primary. I'm not running against anybody in the primary.

17 MAGISTRATE JUDGE BAKER: I've got to stop you
18 because I want to ask you all about that; but we skipped over
19 a lot of time in that "La Woffice," and we haven't spoken
20 about Jim Sargent.

21 JUDGE MCKINNEY: Okay.

22 MAGISTRATE JUDGE BAKER: So you were down in
23 Edinburgh for what?

24 JUDGE MCKINNEY: From '71 -- from August of '71 to I
25 think it was March of '74.

1 MAGISTRATE JUDGE BAKER: And why did you decide to
2 pack up and head to Greenwood?

3 JUDGE MCKINNEY: Well, I laugh because fate is
4 funny. Bob Branigan, the governor's son -- the ex-governor's
5 son, Bob, took all his money out of the Franklin Bank and put
6 it in the Edinburgh State Bank.

7 The significance of that is Charlie and I were
8 working on representing the bank, because you go to a small
9 town like that, particularly one that's not the county seat,
10 you'd like to have the bank as a client.

11 So he talked with the building and loan people, the
12 Blue River Building & Loan. And they had Baron LaGrange, who
13 was a lawyer in Edinburgh, who represented them most of the
14 time, did most of their work. Charlie was having some success
15 with the bank; but as soon as Bob pulled out his money from
16 Franklin and put it in the bank in Edinburgh, then Bob was the
17 Edinburgh State Bank's lawyer from then on. I have thanked
18 Bob often since then; but at the time, it seemed like a bad
19 idea.

20 MAGISTRATE JUDGE BAKER: So you lost a client and
21 gained a new career?

22 JUDGE MCKINNEY: Yes. In addition, Dan Patterson is
23 from Edinburgh, whose parents lived in the house right behind
24 the house I bought; graduated from Tulane Law School and set
25 up shop in Columbus. So all those contacts that he had made

1 it difficult for me to build a new client base there.

2 Tom Jones, who was a lawyer in Franklin, had almost
3 all the criminal business. Harold Soshnick from Shelbyville
4 had a wonderful reputation as a plaintiff's lawyer. If
5 anybody wanted any personal injury things, they all went to
6 Harold Soshnick. These had been long-established patterns.

7 In the divorce arena, a lawyer from Columbus, whose
8 name is Alan Goltra, had established a fine reputation in
9 Edinburgh for that practice. And Baron was still there, and
10 the town only had 5,000 people. Today, if one of my sons was
11 a lawyer who just got out of law school and said, "Dad, I'm
12 going to go to a community in which I know no one. It already
13 has a lawyer. It's not a county seat town. I've got no
14 clients, and I think I want to start my career because I want
15 to be a federal judge," I would say "You, sir, are an idiot."

16 MAGISTRATE JUDGE BAKER: So you went north?

17 JUDGE MCKINNEY: So I went up -- and at the time,
18 there were two or three younger lawyers in the area who were
19 struggling on their own or struggling with somebody and not
20 doing that well.

21 Jim Young, who went on to the Indiana Appellate
22 Court, hired a young man named Larry Combs from Branigan's
23 office.

24 MAGISTRATE JUDGE BAKER: That was a pretty good
25 hire.

1 JUDGE McKINNEY: That was an excellent hire. And
2 Jim was looking for somebody else, and he hired me. So I
3 started with his office in March of '74.

4 MAGISTRATE JUDGE BAKER: Now, is this in Greenwood?

5 JUDGE McKINNEY: Yeah.

6 MAGISTRATE JUDGE BAKER: What happened to Charlie
7 Rogers?

8 JUDGE McKINNEY: Charlie and his wife went to Guam,
9 not just to escape their association with me; but they went to
10 Guam because Charlie's -- one of the Charlie's old friends, a
11 man by the name of Keith Andrews, he and Charlie had been
12 friends for years. Keith had gotten a federal position being
13 the chief federal prosecutor in Guam, and he wanted Charlie to
14 come and be his deputy.

15 Charlie, as I said, had all these foster kids; and
16 he took the whole lot of them and went to Guam. We weren't
17 burning up the league in Edinburgh. That practice wouldn't
18 have supported anybody with kids, let alone both of us.

19 So he went there. And while he was gone, Sargent
20 made me the offer. I got a hold of Charlie, and we talked
21 about it and closed up the Edinburgh office. I thought about
22 trying to keep them both open; but I finally decided, "You
23 can't keep two offices open." I wasn't bringing in enough
24 business -- I had enough business to pay the bills and make a
25 little money on the side, but not enough to keep two offices

1 open. Being in Greenwood at that time, with the building boom
2 everywhere --

3 MAGISTRATE JUDGE BAKER: What is this, 1975 in
4 Greenwood with Jim Sargent and who else?

5 JUDGE McKINNEY: It was just the two of us.

6 MAGISTRATE JUDGE BAKER: Just the two of you.

7 Now, Jim has a bit of a reputation, I think, for
8 being a little emotional, a little excitable.

9 JUDGE McKINNEY: Jim is --

10 MAGISTRATE JUDGE BAKER: What was that like?

11 JUDGE McKINNEY: Jim was a mostly domestic relations
12 lawyer and was sought out because he could put anybody's case
13 in a pretty good light. I hadn't been there for very long,
14 and Jim's dad died. I went to Jim's dad's funeral, and Jim
15 introduced me to his mother. She said to me, "Well, it will
16 be interesting working with Jim because Jim got all of his
17 intelligence from his Dad and his brashness from me."

18 Well, Jim had a healthy dose of both; and we had a
19 pretty good relationship. He had a lot of business. I had
20 been in my Edinburgh practice the Johnson County Memorial
21 Hospital's lawyer. I got that job because I lived next door
22 to one of the people that was on their board of trustees. His
23 name was Bice Roth, who became a dear friend of mine. Bice
24 got me that position, and so that was about the only big
25 client I had when I went there with Jim.

1 Then I got a position as the lawyer for the
2 Greenwood Zoning Board, and we had pretty good years together.
3 Jim, as I said, was a very bright guy and a really good
4 lawyer. He may be a bit volatile on occasion, but there are a
5 lot of lawyers that sometimes get a little carried away.

6 MAGISTRATE JUDGE BAKER: It takes some emotion to
7 practice law?

8 JUDGE MCKINNEY: Sometimes it does.

9 MAGISTRATE JUDGE BAKER: Was it around this time
10 that you started having children with Mrs. McKinney?

11 JUDGE MCKINNEY: Yes. Carole and I had our first
12 child in 1976. Old Josh was born in April of 1976. It was a
13 wonderful event. When she told me she was pregnant, she came
14 in and said, "You know what you've always wanted?" I said,
15 "You're not?" And she said, "Yes, I am." And it was a
16 wonderful day.

17 MAGISTRATE JUDGE BAKER: I was afraid you were going
18 to say two tickets to the World Series.

19 JUDGE MCKINNEY: No, no. Six months, for six months
20 we didn't tell anybody.

21 MAGISTRATE JUDGE BAKER: That's a long time.

22 JUDGE MCKINNEY: Just about the time you couldn't
23 deny it anymore, I went around to all of our friends and
24 knocked on their doors and personally told them; and I was
25 just so proud. I just was thrilled.

1 MAGISTRATE JUDGE BAKER: Why did you wait six months
2 to tell anybody?

3 JUDGE McKINNEY: Because it was just something we
4 wanted to keep to ourselves. That's one reason.

5 The other reason is -- and you know this as a
6 lawyer -- her specialty is child development. So she's aware
7 of all the terrible things that can happen in a pregnancy.
8 And we were a little leery of announcing the pregnancy and
9 then having something untoward happen. So we were a little
10 worried about that.

11 MAGISTRATE JUDGE BAKER: And then Andrew came along
12 awhile later?

13 JUDGE McKINNEY: Andrew was born in 1980. I've
14 still got the sign that the girls in the courthouse put up
15 about his birth.

16 MAGISTRATE JUDGE BAKER: So two sons. What's Josh's
17 middle name?

18 JUDGE McKINNEY: Josh's middle name is Elliott,
19 named after Dick Elliott, whom I had mentioned before.

20 MAGISTRATE JUDGE BAKER: Joshua Elliott?

21 JUDGE McKINNEY: Right.

22 MAGISTRATE JUDGE BAKER: And Andrew?

23 JUDGE McKINNEY: Graham.

24 MAGISTRATE JUDGE BAKER: And at this time, is
25 Mrs. McKinney still working?

1 JUDGE MCKINNEY: She's still working at the college,
2 only she's gone into the Education Department.

3 MAGISTRATE JUDGE BAKER: How would you say that
4 fatherhood changed your life professionally and personally?

5 JUDGE MCKINNEY: Oh, my gosh, what a great question
6 that is. Well, it changes everything. It changes everything.
7 Josh was a little rough on his mother when he was born, and I
8 did all the feedings. He was a horse of a kid, and he ate
9 every two hours. I was sleep deprived, as we say today.

10 MAGISTRATE JUDGE BAKER: Not much has changed.

11 JUDGE MCKINNEY: Not much has changed today. But he
12 was quite a challenge. He took up a lot of my time. It just
13 takes a lots of energy to raise a child. I enjoyed it a lot.
14 He was a wonderful little kid, but he did take -- you couldn't
15 leave him in a room by himself. You'd have to be there.
16 You'd have to be watching all the time. He was such a curious
17 little guy, always getting into something.

18 And life did change. It changed the notion of
19 weekends and nights. You're not so keen on spending a weekend
20 doing something in the legal practice.

21 MAGISTRATE JUDGE BAKER: So you're just kind of
22 getting started with Sargent & McKinney, and along comes the
23 first kid?

24 JUDGE MCKINNEY: Yes.

25 MAGISTRATE JUDGE BAKER: Nowadays, everybody talks

1 about a work-life balance. What kind of balance did you have
2 and did Carole have?

3 JUDGE MCKINNEY: Well, I had a good work-life
4 balance, and so did Carole; and one of the reasons was I
5 didn't have that many clients. I wasn't turning away
6 business. If I could be home and taking care of the kids -- I
7 suspect in Jim's heart of hearts, he'd like to have had me
8 there a little more dedicated, a lot more dedicated. I don't
9 know; but I suspect to his credit, he never beat me up on the
10 subject.

11 MAGISTRATE JUDGE BAKER: And from the way you
12 described Josh, it sounds like Andrew may have been a little
13 easier as a small child?

14 JUDGE MCKINNEY: Andrew was way easier as a kid. He
15 sure was. He was pretty compliant as a baby. He was a good
16 baby.

17 MAGISTRATE JUDGE BAKER: So then you started to
18 describe previously how you got elected, or at least how you
19 entered the primary.

20 JUDGE MCKINNEY: Right. Well, yes, that's how I
21 entered the primary. I met all the precinct people.

22 I don't think I mentioned, though, that when I first
23 got to Edinburgh, I ran for and was elected precinct
24 committeeman from there on in the Republican party, because
25 when I voted in the 1968 election, which was Nixon and

1 Humphrey, I voted for Humphrey and was a Democrat.

2 But when I got out of school in 1969 and the
3 Republican was elected attorney general and he was offering me
4 a job, I had to have a Republican clearance. So I went over
5 to see Nat Hill, who was the county chairman of Monroe County
6 where I voted, and his lovely wife. And they signed my
7 clearance and said "Sure, son."

8 They were the nicest people. They just were the salt
9 of the earth. So I was a Republican then having worked for
10 the attorney general. When I got to Edinburgh, I was a
11 Republican. So I was elected Republican precinct committeeman
12 and actually went to the convention in Indianapolis when Otis
13 Bowen was nominated Republican gubernatorial candidate.

14 At the time, one of Charlie Rogers' buddies, a guy
15 named Bill Sharp, was also running. It was an interesting
16 thing to watch as a complete novice.

17 MAGISTRATE JUDGE BAKER: I would imagine winning the
18 primary as a Republican in Johnson County pretty much assured
19 success in the fall.

20 JUDGE McKINNEY: Well, you would think so, except in
21 the fall, I ran against Thurman DeMoss. Thurman DeMoss was a
22 lawyer, had been a lawyer in Franklin for years and had
23 distinguished himself in World War II. He had been in World
24 War II as a medic.

25 Every now and again, people would show up from New

1 York or Florida; and suddenly, Thurman's money was no good.
2 They would just take him out and do whatever Thurman would
3 like to do.

4 I remember going to Florida with Thurman once after
5 I had beaten him in the election, and a gentleman showed up to
6 take Thurman someplace. He took us all. Our money wasn't
7 good. It turned out Thurman had pulled this guy out of a
8 flaming tank in World War II. He was a guy from New York who
9 Thurman had rescued as a medic. They'd been captured by the
10 Germans and Thurman and this man, a wounded guy, escaped.

11 Thurman was a real genuine World War II hero, and he
12 had been practicing law. His only drawback was that he was a
13 Democrat in Johnson County trying to get elected.

14 MAGISTRATE JUDGE BAKER: Right.

15 JUDGE MCKINNEY: But the election was on a Tuesday.
16 And Monday's paper, the editorial written by the Editor, Scott
17 Alexander -- who I know that you know him.

18 MAGISTRATE JUDGE BAKER: Former publisher of the
19 newspaper down there?

20 JUDGE MCKINNEY: Yes, who probably hired you.

21 MAGISTRATE JUDGE BAKER: He probably did.

22 JUDGE MCKINNEY: He probably did. And it said that
23 "Clearly, the only choice for the Circuit Court is Thurman
24 DeMoss, experienced versus inexperienced" and on and on.

25 I had been in the county from '71 to '78, so I

1 wasn't a brand new lawyer. I was 34 years old. I remember
2 during the campaign, somebody said to me, "How do you know
3 you'll be a good judge?" And I gave them the only answer I
4 can give them. I said, "I don't. I don't know if I'll be a
5 good judge. I do know this, that I've been pro tem a few
6 times; and I've really been impressed with the weight of the
7 decisions that have to be made and that I was comfortable with
8 it; and I think I can do a decent job." And I certainly -- I
9 think my motto at the time was "energy, integrity" -- and I've
10 forgotten what the other one was.

11 MAGISTRATE JUDGE BAKER: It's right around the
12 corner.

13 JUDGE MCKINNEY: It is. Let me look at that poster
14 real quick, because that poster itself is another story.
15 Impartiality, that was it. Impartiality, integrity and
16 energy, those are the three things. That's what I told him.
17 I said, "I think I've got that. I think I can bring that to
18 the job, but I don't know with absolute certainty."

19 MAGISTRATE JUDGE BAKER: So that came out the day
20 before the election, the editorial?

21 JUDGE MCKINNEY: Yes, in the paper, you're right,
22 the editorial.

23 MAGISTRATE JUDGE BAKER: That must have caused you a
24 bit of concern.

25 JUDGE MCKINNEY: Well, you know how it is. It would

1 cause you some concern if you look at that. You think it's
2 easy running in a county where Republicans have the best
3 chance; but if you'd be the only one that would fowl that up,
4 there's a little tension.

5 In fact, that year, the county clerk was elected as
6 a Democrat. Her name was Betty, Betty -- again, that will
7 come to me.

8 MAGISTRATE JUDGE BAKER: Not Betty Sheek?

9 JUDGE MCKINNEY: Yes, this was Betty Scheell. She
10 and her family had lived in the northern part of the county
11 for years; and she was known by an awful lot of people. She
12 beat Mrs. Admire actually in the election, which surprised me.

13 MAGISTRATE JUDGE BAKER: Well, you went and checked
14 on that campaign poster. And there's a story behind that.

15 JUDGE MCKINNEY: There is.

16 MAGISTRATE JUDGE BAKER: Would you share that with
17 us?

18 JUDGE MCKINNEY: Yeah, sure. If you're going to run
19 for office, you have to buy posters. I went to see the
20 printer. The printer was a big-time Republican. He was very
21 verbal in his views, a very conservative fellow.

22 So I paid him and he gave me the posters. And I
23 start to walk out and he says, "Oh, wait a minute." I said,
24 "What's the matter?" And he said, "Well, take a look at that
25 poster." So I look at the poster, and it says -- let's see if

1 the court reporter can remain sober and professional while she
2 looks at this poster, because if you look closely right here,
3 "circuit" is spelled C-I-R-U-I-T. So it's the "Ciruit Court."

4 So we've got all these posters, and they've got
5 "circuit" misspelled. So he said, "Okay, all right." He
6 said, "I'll print some more." So he printed some more.

7 On my way out the door, I get to my car and there's
8 -- I can't think of Terry's last name -- DeLarossa. He was a
9 state trooper in town, writing me a ticket for having an
10 expired license plate.

11 My defense was I had the plate under the front seat
12 and I had not put it on. He still wrote me the ticket. So I
13 had to take that ticket down to the city court, Ron
14 Schafstall's city court, and show that I had actually
15 purchased it; and it was now properly affixed to my car.

16 I thought to myself, boy, this is great. This is
17 really launching my career properly here. I have a poster
18 that can't spell "circuit" right, and I just got a ticket for
19 having an expired license plate.

20 MAGISTRATE JUDGE BAKER: Well, did the campaign get
21 better? Did you go around and actually do some campaigning?

22 JUDGE McKINNEY: Yes, the campaign got better.
23 Yeah, I went around. I actually enjoyed the campaign. I met
24 a lot of people I didn't know. And in those days, the
25 northern part of the county wasn't nearly as big as it is now;

1 but it was still pretty populated.

2 I walked a lot, knocked on doors, talked to people.
3 The party organization was pretty good. They arranged to go
4 to the Greenwood Retirement Center and take us over to the
5 Methodist Retirement Center.

6 When I was in the Methodist Retirement Center, I met
7 my high school chorus teacher. Fortunately, she didn't
8 remember me because she told me after the second day of the
9 chorus class that if I promised just to mouth the words and
10 not sing, she'd give me an A. I did and she did.

11 MAGISTRATE JUDGE BAKER: But did she vote for you?

12 JUDGE MCKINNEY: She did. She certainly did.

13 MAGISTRATE JUDGE BAKER: Did she ever figure out who
14 you were?

15 JUDGE MCKINNEY: No, no. It was most pleasant.

16 MAGISTRATE JUDGE BAKER: What did you do when you
17 found out you won?

18 JUDGE MCKINNEY: That's really a good question
19 because it strikes you, what you've done. I'm sitting in the
20 Republican headquarters with Phil Wilson, who is a lawyer in
21 Franklin; and I'm watching the returns. And when it became
22 evident that I was going to win, I thought to myself, "What in
23 the world have I done?"

24 And I turned to Phil; and I said, "What am I going
25 to do with the juveniles?"

1 So it was quite -- it was a good, cold bucket of
2 water in the face to find that you'd actually gotten yourself
3 elected.

4 I remember giving a campaign speech to three people.
5 I was invited to come to the Franklin Optimist Club. So I
6 did, and there were three people; and I gave my speech anyway.

7 MAGISTRATE JUDGE BAKER: But you got three votes?

8 JUDGE MCKINNEY: Maybe I did.

9 MAGISTRATE JUDGE BAKER: Do you remember your first
10 day on the bench?

11 JUDGE MCKINNEY: On the bench? Yes. It's kind of
12 daunting. You go in, and Judge Young had graciously left me
13 with a robe. It wasn't his. The robe belonged to Judge Neal,
14 Bob Neal, who was the Circuit Court judge in Brazil, Indiana
15 and had gone, I think just recently, onto the appellate bench.
16 Somehow or another, Bob Young had it. So I used his to begin
17 with. It was pretty daunting to go in and realize what you'd
18 done, to sit there in that office.

19 MAGISTRATE JUDGE BAKER: I remember something about
20 your first trial, and you had a certain lawyer there who kind
21 of helped you through it to a certain extent.

22 JUDGE MCKINNEY: I had the first lawyer -- Thurman
23 DeMoss, was co-counsel for the defense lawyer, who was Bill
24 Shreckengast.

25 MAGISTRATE JUDGE BAKER: This is the judge -- I mean

1 the candidate who you beat --

2 JUDGE McKINNEY: Yes.

3 MAGISTRATE JUDGE BAKER: -- is trying the case in
4 front of you?

5 JUDGE McKINNEY: Yes. And on the other side, Mike
6 Gholson was the local counsel for Mike Kias. But that docket
7 was so crowded at that time. I tried this case I think it was
8 January. I tried it to a jury in January of 1979, and the
9 accident that was the source of the suit had occurred in 1968.
10 I didn't graduate law school until '69, as you know; so that's
11 how far behind that court had been.

12 Thurman was a wonderful lawyer. He would not make
13 an objection unless he genuinely, truly thought it was right;
14 and I knew that.

15 The Plaintiff's lawyer did a fine job of presenting
16 his case, and Bill Schreckengast gave to this day what I think
17 is one of the finest closing arguments I ever heard. And it
18 was a zero verdict just like that.

19 I came to learn that one of the reasons the case
20 pends that long is because it is not a good case. Nobody
21 wants to really bring it to a conclusion. Nobody wants to
22 have to stand up and make the case. Most people like to have
23 an answer to their dilemma; but some people really like to
24 have the hope of recovery alive as long as possible,
25 especially when that hope is dim.

1 MAGISTRATE JUDGE BAKER: Although that was probably
2 in the days before settlement was pushed like it is today?

3 JUDGE MCKINNEY: Well, I don't know that that's
4 right, Tim. When I left down there, I think I was responsible
5 for around 2,500 cases, including probate. That number sticks
6 in my mind; and that may have been what I had to start with.
7 The important thing is when you've got that many cases on your
8 docket, court time is precious.

9 On Monday, I had six criminal cases; six jury
10 criminal cases set every Monday.

11 On Tuesday, I had six civil juries set.

12 On Wednesday, I had six court trials set, no juries,
13 just to me; and those would include divorces.

14 On Thursday, I had six more civil juries set; and on
15 Friday mornings, I had set arguments on all summary judgment
16 motions and motions to dismiss.

17 In the afternoon on Friday, I did divorces,
18 preliminary hearings and contempt citations. That was the
19 week. 90 percent of my cases still settled, 95, just like
20 they do today; but they settled for the wrong reasons. They
21 settled because you couldn't get to the judge. You couldn't
22 get to the jury. You couldn't get to the court. Time is
23 money, as Lincoln said.

24 But they also settled because lawyers are very
25 resourceful, and they get used to what's available. So one of

1 the things that I thought would be important would be for me
2 to read everything that I could possibly get my hands on on
3 each case so that when I went in on Friday morning, it was
4 apparent to the lawyers that I was prepared. And I was. I
5 read all the motions and asked appropriate questions. I don't
6 know where that energy came from; but I said I had it, so I
7 must have had it.

8 MAGISTRATE JUDGE BAKER: Yes. I don't know. I did
9 a little research. I did find an article that talked about
10 how busy the court was down there in Johnson County.

11 JUDGE MCKINNEY: Goodness gracious, where did this
12 come from?

13 MAGISTRATE JUDGE BAKER: That's an article from *The*
14 *Daily Journal*, and it talked about back in those days that the
15 lawyers could pick which court they wanted to file in. They
16 could file in Johnson County I, II or the Circuit Court.

17 JUDGE MCKINNEY: Well, really, Johnson County
18 Superior Court II in 1984 was a Small Claims Court. So they
19 couldn't -- well, I guess they could have. Yes, you could
20 have filed in the Circuit Court or the Superior Court I.

21 MAGISTRATE JUDGE BAKER: According to that
22 article -- and that's from 1984 -- there were 968 new cases,
23 647 of which were civil filings in that year, compared to 631
24 for Superior I and 487 for Superior II. And Superior II did
25 have the small claims. So it looked like the lawyers who

1 could file, back then anyway, in any court they wanted, tend
2 to file in your court. That would make for a pretty busy
3 place to do business.

4 JUDGE MCKINNEY: It was a very busy place to do
5 business.

6 MAGISTRATE JUDGE BAKER: It was also in the day when
7 lawyers could get an automatic change of venue, right?

8 JUDGE MCKINNEY: Yes, which today, I think, is still
9 the best way. You know, we wouldn't have to worry about
10 picking judges if you could do that.

11 The value of that was this: You could file a case
12 in Marion County. You filed cases in Marion County if you
13 were incorporated in the state of Indiana. That's why these
14 big cases came into Marion County because you automatically
15 filed them here.

16 Then you could say, "Okay, I want a change of
17 venue," for no reason at all; and then so you'd get a choice
18 of all the doughnut counties around Marion County. And you'd
19 strike. The plaintiff and the defendant would sit and strike.
20 And then whatever county -- since they are seven, it came out
21 that way -- the one that was left would get the case.

22 If you filed it in Johnson County, you could get an
23 immediate strike in the counties around Johnson. It was the
24 same thing for every county. What that did was that allowed
25 the electorate to elect the judge and say publicly, "This is

1 the person that I'd like to have resolve the disputes that I
2 want to bring as a citizen of this county. That's the person
3 I want."

4 Now, if the electorate fouled up that process or got
5 somebody who thought they'd be good and they turned out not to
6 be good, or somebody who got tired or sick or lazy or
7 whatever, the lawyers and the clients then could have a
8 specific choice, could have some input on who's going to
9 resolve that dispute. The point is who's going to resolve
10 that dispute? Who gets to make that choice? The electorate
11 gets to make the choice, and then lawyers and the litigants
12 got to make the choice. You know, that's not a bad idea.

13 MAGISTRATE JUDGE BAKER: Is it still -- it's not
14 still that way in Johnson County?

15 JUDGE MCKINNEY: No.

16 MAGISTRATE JUDGE BAKER: They have a blind draw now,
17 don't they?

18 JUDGE MCKINNEY: Well, you don't have venue change
19 anymore.

20 MAGISTRATE JUDGE BAKER: Well, I know that; but I'm
21 not sure what the local practice is in Johnson County. They
22 did away with that.

23 JUDGE MCKINNEY: I think in Johnson County now,
24 they've got a probate judge. They've got family court judges.

25 MAGISTRATE JUDGE BAKER: But it makes for a very

1 busy judge.

2 JUDGE McKINNEY: It does. It does for a fact. A
3 guy used to say, "What do you do all day?" I'd say, "Well, I
4 go in the office with a squirt gun strapped to each side; and
5 I put out fires all day long."

6 But there's something invigorating about that. I
7 always had my door open, lawyers coming in and talking. I'd
8 be on the bench. There'd be weeks and weeks and weeks where
9 I'd go out on Monday morning at 8:30, have lunch and go back
10 till five.

11 When I was young and naive, I thought if you stayed
12 late at night, you could get it all done. Not true.

13 MAGISTRATE JUDGE BAKER: No, you never get it all
14 done.

15 JUDGE McKINNEY: No, you don't.

16 MAGISTRATE JUDGE BAKER: In addition to civil cases
17 though, you had some pretty serious criminal cases?

18 JUDGE McKINNEY: We did, a lot of civil cases.

19 MAGISTRATE JUDGE BAKER: You had murders?

20 JUDGE McKINNEY: We did.

21 MAGISTRATE JUDGE BAKER: You had rapes?

22 JUDGE McKINNEY: Right.

23 MAGISTRATE JUDGE BAKER: Child molest?

24 JUDGE McKINNEY: Child molest.

25 MAGISTRATE JUDGE BAKER: You had a very active

1 criminal docket. What was it like? Now, you still have very
2 serious criminal cases in Federal Court --

3 JUDGE McKINNEY: I do.

4 MAGISTRATE JUDGE BAKER: But they're different.

5 JUDGE McKINNEY: I've never done a murder, and I've
6 never had to sit and listen to some child tell me what had
7 happened to him at the hands of some relative or some
8 stranger.

9 MAGISTRATE JUDGE BAKER: And what was that like
10 listening to all of that kind of testimony day after day after
11 day?

12 JUDGE McKINNEY: Well, I don't know what you mean by
13 what it's like. I've mentioned this a million times, I
14 suppose; but I think the job of the judge is to go in the
15 office at a reasonable hour, work at a reasonable pace, rule
16 by the law, treat people with respect and go home at a
17 reasonable hour. I think that's your job. That's number one.

18 But the second principle -- Eleanor Roosevelt was
19 interviewed once. She was asked, "Eleanor, to what do you owe
20 your longevity?" And she said, "When I'm asked to make a
21 decision, I do everything I can to get the facts that I need
22 to make it, to take in every reasonable factor in making that
23 decision, and then forget it." And that's excellent advice.

24 MAGISTRATE JUDGE BAKER: And that's what you do?

25 JUDGE McKINNEY: And that's what I do. That's what

1 I do. And that's how I do it.

2 MAGISTRATE JUDGE BAKER: Not to say that you haven't
3 been reversed a few times?

4 JUDGE McKINNEY: Oh, no, not to say I haven't been
5 reversed; and I've been rightfully reversed. I remember the
6 first reversal from Judge Shepard, the first one I ever got
7 from Judge Shepard. This isn't the first reversal I've
8 gotten. I don't remember the first time I got reversed. It
9 didn't make that much of an impact on me.

10 I do remember the first time Judge Shepard reversed
11 me; and I said to myself, "My gosh, that guy is right. I wish
12 I'd have thought of that."

13 MAGISTRATE JUDGE BAKER: But you didn't say that
14 every time you got reversed?

15 JUDGE McKINNEY: No, no. In fact, I'll just be
16 frank while we're on here. I don't know if they're still
17 alive or not, but there's certain Indiana Appellate Court
18 judges that I said to my associates, "If you haven't been
19 reversed by them a couple of times a year, you're not doing
20 your job."

21 MAGISTRATE JUDGE BAKER: There was one case I seem
22 to recall involving a dog bite.

23 JUDGE McKINNEY: That was a federal case.

24 MAGISTRATE JUDGE BAKER: Oh, was that a federal
25 case?

1 JUDGE MCKINNEY: That was a federal case.

2 MAGISTRATE JUDGE BAKER: Well, tell us about that
3 one.

4 JUDGE MCKINNEY: Well, that's a great story. It
5 used to be when you became a federal judge, the very first
6 Seventh Circuit Conference you would have to entertain. So,
7 you know, throw me in the briar patch.

8 So as a part of my entertainment, I'm suggesting to
9 them that perhaps when I was on the state court bench, I had
10 cases more serious than I'm getting now in the federal case
11 because I had drawn a dog bite case.

12 So everybody laughs, "Yeah, the judge has got a dog
13 bite case. That silly guy." So then I try this dog bite case
14 to the court. I rule for the dog. I get reversed, which
15 makes it hysterical. It seems to me that here I was telling
16 all these federal judges that I've got all this easy stuff
17 now.

18 And, in fact, I didn't even -- from the Appellate
19 opinion, I didn't even understand Indiana dog bite law. "Who
20 is that bonehead down there in Indianapolis who doesn't even
21 understand dog bite law?"

22 MAGISTRATE JUDGE BAKER: Can we go off the record
23 for a minute.

24 *(The oral history interview was recessed at this time.)*

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Laura Howie-Walters
LAURA HOWIE-WALTERS, CSR
Official Court Reporter
Southern District of Indiana
Indianapolis Division

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF INDIANA
3 INDIANAPOLIS DIVISION
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7 OFFICIAL REPORTER'S TRANSCRIPT OF
8 THE ORAL HISTORY OF JUDGE LARRY J. MCKINNEY
9

10 INTERVIEW BY MAGISTRATE JUDGE TIM A. BAKER
11

12 MAY 8, 2009
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19 Court Reporter: Laura Howie-Walters, CSR
20 Official Court Reporter
21 United States District Court
22 46 East Ohio Street
23 Room 217
24 Indianapolis, Indiana 46204
25

PROCEEDINGS TAKEN BY MACHINE SHORTHAND
TRANSCRIPT PRODUCED BY ECLIPSE NT COMPUTER-AIDED TRANSCRIPTION

1 MAGISTRATE JUDGE BAKER: Before we get started, I
2 wanted to indicate that it's May 8th, and we are again in the
3 chambers of Judge Larry J. McKinney. I'm Tim Baker, and we're
4 continuing with the oral history of Judge McKinney who, I
5 think, might have had one additional thought.

6 JUDGE MCKINNEY: Yes, I did. I wanted to mention
7 that when I had my office down in Edinburgh, one of my first
8 clients -- it was a Saturday, and I couldn't afford to have a
9 secretary and to pay her on Saturdays, so I was in the office
10 by myself. A young lady came in the office and wanted to know
11 if we did deeds. I said, "Why certainly. Do you type," I
12 said? And she said "Yes," she did.

13 So the client came over and sat down at my
14 secretary's desk. I showed her where to fill out all the deed
15 information. She had her abstract, so we typed up the whole
16 deed. And then she said, "What do I owe you?" And I said,
17 "Deeds are \$15." And she said, "But I typed it all, and you
18 didn't do anything except tell me where to put the
19 information." And I said, "Well, that and the name on the
20 bottom of the deed is why it's \$15." "Okay," she said, and
21 gives me my \$15.

22 MAGISTRATE JUDGE BAKER: Was that the only time
23 where people had typed up their own deed?

24 JUDGE MCKINNEY: I think in the history of
25 Edinburgh, it's probably the only time in history that

1 somebody got charged to type up their own deed. The other
2 thing I wanted to mention is that in those days, we had fee
3 schedules. And when you joined the Bar Association, you got
4 the book that had the fee. The fee schedule in 1971, Johnson
5 County, was \$15 for a deed. It was \$30 an hour. That was
6 what the hourly rate was, and I believe a will was also \$15.
7 I have that. I still have that fee schedule.

8 MAGISTRATE JUDGE BAKER: If you do, we can attach it
9 to the record and make a copy of it.

10 JUDGE MCKINNEY: I have a fee schedule from the
11 prior one, from before that, which is interesting. Of course,
12 you don't have fee schedules now.

13 MAGISTRATE JUDGE BAKER: Just fees.

14 JUDGE MCKINNEY: Just fees. No big fee schedule,
15 just big fees.

16 MAGISTRATE JUDGE BAKER: Any other stories that you
17 wanted to relate from your practice? We had previously been
18 talking about your time on the Johnson Circuit bench.
19 Anything else you wanted to add from your practice days?

20 JUDGE MCKINNEY: There's so many. I practiced, as I
21 mentioned, from August of '71 to March of '74 in Edinburgh.
22 And there's just a lot of social work that you end up doing,
23 explaining the law to people. You do more of that than you do
24 actual representation. So when we got to the pro bono
25 activities of the Johnson County Bar, I always thought I

1 should have a pass, because I did pro bono work for the two
2 and a half years I was in Edinburgh.

3 I met a lot of nice people, and there is such a
4 thing as poor people's law. And they have notions about the
5 law that are very important to them, and they really believe
6 them. For example, if you're pregnant, you can't be evicted
7 from your rental, which I found very interesting. It makes
8 sense, actually.

9 MAGISTRATE JUDGE BAKER: You just couldn't find a
10 case to support that?

11 JUDGE MCKINNEY: Yes, I could never find a case to
12 support it.

13 MAGISTRATE JUDGE BAKER: Well, kind of related to
14 that, let me move forward, because when you became judge in
15 Johnson Circuit Court, I know you did a lot of dissolutions.
16 You did a variety of things that directly impacted the
17 community.

18 JUDGE MCKINNEY: Right.

19 MAGISTRATE JUDGE BAKER: And you had kids going to
20 school --

21 JUDGE MCKINNEY: I did.

22 MAGISTRATE JUDGE BAKER: -- there, and sometimes you
23 were divorcing the parents of the kids --

24 JUDGE MCKINNEY: I did.

25 MAGISTRATE JUDGE BAKER: -- who were in class with

1 your own kids.

2 JUDGE MCKINNEY: Exactly.

3 MAGISTRATE JUDGE BAKER: What was that like, and
4 what kind of situations did that create?

5 JUDGE MCKINNEY: Well, I've talked to my boys about
6 it, because I had to get beyond the "I don't want to hear
7 about it" stage because I actually -- I did want to hear the
8 impact. There were a couple of occasions where I did divorces
9 for kids' parents that they knew, and it caused them a little
10 bit of tension now and again. But there was never any
11 hostility towards them, because I had been involved in the
12 case. We never had any -- the community was very accepting of
13 them and accepting of the role that I played in that
14 community.

15 I remember, I got gas the same place every day. So
16 I pulled into the gas station one day, and I knew the young
17 man that attended the pumps. And he came over, and he said to
18 me rather hostilely, "Why did you leave my little brother in
19 jail?" And I said, "Think about it now," and I called him by
20 name. "How many times has he been in and out of jail?" And
21 he said, "Three or four times." I said, "How does that make
22 your mother feel every time that happens?" And he said,
23 "Well, she's never happy and neither am I."

24 I said, "Why don't we leave him in jail for just a
25 little bit of time? Maybe this will be the time that he's in

1 long enough that he can see what he needs to be doing with his
2 life and understands the impact he's -- the negative impact
3 he's having on his family." "Oh," he says, "That's a good
4 idea, Judge. Thanks." And then I left, and that, in fact,
5 happened to that kid. He stayed in long enough that he
6 straightened out, and I didn't have to sentence him to much
7 time at all. And he's a relatively decent kid today.

8 MAGISTRATE JUDGE BAKER: What do you think the price
9 of gas was when you had that conversation?

10 JUDGE MCKINNEY: When I had that conversation, it
11 was probably 38.9, something like that, 38 cents.

12 MAGISTRATE JUDGE BAKER: On a related matter, we
13 were talking about dissolutions, but also you took child
14 support obligations pretty seriously.

15 JUDGE MCKINNEY: I did.

16 MAGISTRATE JUDGE BAKER: I seem to recall some
17 instances where people who hadn't been paying their support,
18 which is always a difficult thing to deal with, had a bit of a
19 day of reckoning when they would come in and see you. Do any
20 of those ring a bell?

21 JUDGE MCKINNEY: There's a couple that stand out.
22 There's one guy who lives in Edinburgh that after his visit to
23 the courthouse was referred to as "Turnip" from then on. And
24 what had occurred was he'd come to court, and he hadn't paid
25 his child support and he was working. If you're working and

1 you're not paying your child support, you're in serious
2 trouble at the courthouse, because you have the ability to pay
3 and you're not paying. And that puts you in direct contempt
4 of the court's order.

5 So I said to him -- I explained that to him, and
6 then he said, "Well, you can't get blood out of a turnip."
7 And I said, "No, but I can put a turnip in a jail every
8 weekend." And he said, "I'll pay that today, Judge," he said.
9 So from then on in the community, he was known as "Turnip."

10 I'll never forget one fellow who was -- he was about
11 55, 60 years old, and he was horribly behind. Every Friday he
12 came in, he couldn't pay, couldn't find a job. It was
13 terrible, the economy was keeping him from having a job, and I
14 pull into the filling station, a Wake-Up station within a
15 stone's throw of the courthouse. And who should come out on
16 that Friday morning and fill my tank but this very gentleman.
17 So I'm thrilled to death.

18 He doesn't recognize me, and I recognize him. So I
19 can hardly stand myself all day long. I want to see this
20 gentleman and see what's going to happen. So he comes in in
21 the afternoon. It's about 3:15 -- well, we started our
22 contempts at 3:00, and I didn't get to him until last because
23 I had other things I wanted to do. And I wanted to have him
24 just sit there, and he just sat there.

25

1 He came up. I guess it must have been about quarter
2 to 5:00, and I think he was the last guy. And I said, "Well,
3 good afternoon" Mr. So and So -- and I can remember his name.
4 His name is not important for this, but I can remember his
5 name. I can remember his face. So I said, "So, Mr. So and
6 So, how are you coming with that job search?" He said, "Oh,
7 Judge, the economy's terrible. I just can't find a job. It's
8 just awful."

9 I said, "Well, Mr. So and So, do you have a twin
10 brother?" And he said, "Well, no." And I said, "Well, you
11 know, this morning you filled my gas tank right down there at
12 the Wake-Up station, didn't you?" And he slammed his hand
13 over his heart and he said, "Oh, oh, the pain, it's
14 overwhelming, and then he fell down right in the middle of the
15 well of the court. So I called the sheriff's deputy over, and
16 we helped him to the hospital.

17 As I looked out, I looked out the window and I see a
18 police car, the ambulance, and another police car. And I said
19 to my secretary, "Well, mark down what day this is because
20 this is the First Annual Angina Day Parade, and they're all
21 going to the hospital." And then the guy came in the next
22 time, and he was paying what he was supposed to pay.

23 I had another one once where it was the same thing.
24 "I can't get a job, I can't get a job." And I'd have him
25 bring me in 30 applications every Friday for places they'd

1 been, and I had them signed by the person that they had
2 interviewed. "Well, I can't afford paper." "Well, do you
3 know where the library is?" You get that kind of thing. "Do
4 you smoke?" "Well, yeah." "How much do you spend a week," on
5 and on.

6 And then you get the one guy who just couldn't do
7 it, couldn't do it, couldn't do it. And one of the probation
8 officers said she had a probationer who had a job available in
9 the very area that this guy needed because this was where he
10 worked. So the guy comes in. "Well, I can't find a job," he
11 says. And I said, "This is your lucky day. You go right back
12 there and see that probation officer, and there's a person on
13 the other end of that phone, and you'll have a job." And I
14 look at the watch, "in five minutes." And sure enough, he had
15 a job in five.

16 You never saw such a hang-dog look on a guy's face
17 in your life. He was just totally distressed. It was a
18 wonderful day for justice at the Johnson County Courthouse,
19 I'll tell you that.

20 MAGISTRATE JUDGE BAKER: To begin the discussion
21 about the Johnson Circuit Court, I think we kind of skipped
22 over your swearing in, and I seem to recall --

23 JUDGE MCKINNEY: Oh, we did?

24 MAGISTRATE JUDGE BAKER: I seem to recall that your
25 family was there.

1 JUDGE MCKINNEY: They were.

2 MAGISTRATE JUDGE BAKER: Including your children.

3 JUDGE MCKINNEY: Josh was there.

4 MAGISTRATE JUDGE BAKER: One of whom distinguished
5 himself?

6 JUDGE MCKINNEY: Josh did distinguish himself. I
7 had my dad fixed up as a Notary Public so he could swear me
8 in, which meant a great deal to me. And I had Josh on my left
9 arm as I raised my right hand, and at the conclusion of the
10 oath, Dad handed me the gavel.

11 Now, the gavel was a gavel that had been handmade by
12 my mother's dad, so it was a nice family heirloom. And he
13 handed that to me, so I handed it to Josh who immediately hit
14 me between the eye with it, and said, "You, Turkey" and then
15 hit me. So I had to demonstrate my judicial demeanor and
16 temperament by taking that thing away from the child without
17 looking like a horrible ogre.

18 MAGISTRATE JUDGE BAKER: How old do you think Josh
19 was at that time?

20 JUDGE MCKINNEY: Josh was two and a half, two years
21 and maybe eight months, nine months -- eight months. Two
22 years and eight months.

23 MAGISTRATE JUDGE BAKER: You said last time we got
24 together that you thought maybe you'd tried a hundred juries
25 in your first six years?

1 JUDGE MCKINNEY: Yes.

2 MAGISTRATE JUDGE BAKER: Which is a torrid pace.
3 How did you survive all that?

4 JUDGE MCKINNEY: That's an excellent question,
5 because it really does wear you out. It really does wear you
6 out. So when I first ran for office, I took up -- as I
7 mentioned to you, when I first knew I was going to run in
8 April of '78, I took up jogging. And I went down to the
9 track, down at Irwin Park in Edinburgh and jogged every day so
10 I could have the energy to not only just walk through the
11 neighborhoods and campaign, but it turned out that jogging
12 over the noon hour every day really helped the energy level.

13 If I hadn't done that, I don't know how I would have
14 done all that. And I had a couple of interesting, to me
15 anyway, consequences. One was I was trying a really important
16 case, and I'd just gone out and I'd run over the noon hour
17 and the press was there. They had their cameras there on the
18 side of the house.

19 So there's a little clip of me someplace walking up
20 the stairs cramming a half a sandwich down my throat, cheeks
21 all puffed out, hair all messy. I looked like some sort of a
22 vagrant who had come upon a lunch after three or four days of
23 not eating.

24 Another time one of the guys at the Daily Journal
25 said he was going to come out and take my picture jogging.

1 And I said, "Well, do me a favor and take the picture when I
2 start and not when I get done." And sure enough, I get just
3 done and he's behind a bush someplace and pops out and gets my
4 picture. But you're right, those were intense times. And the
5 news covered the court there every day. We would often have
6 the court -- the TV camera coverage from Indianapolis would be
7 down both on serious criminal cases or some civil matters that
8 caught the public interest.

9 MAGISTRATE JUDGE BAKER: You had no law clerks?

10 JUDGE MCKINNEY: No, I didn't have a law clerk.

11 MAGISTRATE JUDGE BAKER: No interns?

12 JUDGE MCKINNEY: No interns.

13 MAGISTRATE JUDGE BAKER: So you did the researching
14 and writing?

15 JUDGE MCKINNEY: Right.

16 MAGISTRATE JUDGE BAKER: I seem to recall seeing you
17 down in the law library in the basement of that building?

18 JUDGE MCKINNEY: Right, when I had time to go to the
19 basement. It was more than one week --

20 MAGISTRATE JUDGE BAKER: With books higher than you
21 were sitting down there?

22 JUDGE MCKINNEY: Yes, that's true. More than one
23 week, we'd go in. They'd start court at 8:30, and I'd sit
24 down at 8:30, take your little break, sit down to lunch,
25 finally get up and go home about 5:30 or 6:00. And you do

1 that eight or nine weeks in a row, it really does wear you
2 out. It really does.

3 MAGISTRATE JUDGE BAKER: Were there any -- you had
4 so many cases, but any notable cases, either publicity-wise or
5 personally, that stand out as cases that you would remember?

6 JUDGE MCKINNEY: Oh, yeah. I remember Greg Bedon.
7 I'll never forget his case with the football helmet. He was
8 the youngest individual in the United States who'd ever been
9 rendered a quadraplegic by a football accident, and he was
10 from such a wonderful family.

11 MAGISTRATE JUDGE BAKER: His dad was a state
12 trooper?

13 JUDGE MCKINNEY: His dad was a state trooper, and I
14 believe had played basketball at Notre Dame. He had a brother
15 who I believe was -- I can't remember what the brother did
16 actually, but it was a very, very interesting area of the law.
17 It was a products liability case and had to do with the
18 football helmet and the controversy of whether or not the
19 football helmet could possibly be responsible for this
20 particular injury. And the plaintiff's lawyer was from
21 Detroit, and he was quite an excellent lawyer with great
22 persuasive skills and he had -- Harry Philo was his name, but
23 he had an associate, Linda Atkinson.

24 I'm sure Linda was a partner. I don't mean to demean
25 her position or place, but he would be in the courtroom, and

1 he would begin to think about something. And the next thing
2 you'd know, he would say "What I need is" and almost before he
3 got it out, she'd have whatever he needed in his hand.

4 It was almost remarkable the way the two worked
5 together. She was so bright and so good at anticipating what
6 he needed. And the defense in the case -- very unusual for
7 Harry Wilson to have a defense case.

8 MAGISTRATE JUDGE BAKER: Harry Wilson, one of the
9 most well-known Plaintiff's trial lawyers in Indiana?

10 JUDGE MCKINNEY: Right.

11 MAGISTRATE JUDGE BAKER: And Bruce Kehoe was there?

12 JUDGE MCKINNEY: Bruce Kehoe was there.

13 MAGISTRATE JUDGE BAKER: He was probably still
14 cutting his teeth a little bit?

15 JUDGE MCKINNEY: Yeah, Bruce was relatively new at
16 the time, and Bruce has a nursing degree. That's one of the
17 reasons that Harry thought he ought to be there to help him
18 with the medicine of it. They were -- they did an excellent
19 job.

20 I remember the defendant company sent
21 representatives from their home office. I believe it was
22 California, and they were the -- they were the designated
23 disgruntlers in the back. So if I made a ruling during the
24 course of the day that was against their company, they would
25 be aghast and shake their heads at what amazing ignorance was

1 transpiring in the Johnson County Circuit Court. But even
2 worse, they'd harass Harry every day after the case, but that
3 got a lot of attention because it was quite a story of a young
4 man becoming a quadraplegic as a result of an 8th grade
5 football game. It just doesn't happen.

6 MAGISTRATE JUDGE BAKER: How did the case come out?

7 JUDGE MCKINNEY: Well, the plaintiff prevailed in
8 that case, and then they settled. I don't know how they
9 settled, but they settled on appeal. And I don't know what
10 the parameters of the settlement was, but that was a
11 relatively -- well, it was a pretty -- it got a lot of public
12 attention.

13 MAGISTRATE JUDGE BAKER: Do you recall the amount of
14 the verdict?

15 JUDGE MCKINNEY: I don't.

16 MAGISTRATE JUDGE BAKER: It was a
17 million-dollar-type verdict?

18 JUDGE MCKINNEY: Yes, it was very large. It was a
19 very large verdict, but I don't remember exactly what it was
20 anymore.

21 We had another case that was of international
22 interest. Citizens of Great Britain, from England and Ireland
23 and Scotland and Wales had participated in some tests of the
24 drug Oraflex, which was an arthritis drug made by Lilly, and
25 they had sued in the United States. The issue in the case was

1 whether we had jurisdiction in the United States since it was
2 Lilly's office in England that produced this drug, and all the
3 tests were in England.

4 It was a very interesting legal issue, but after I
5 had ruled on that, I got a phone call from the London Times
6 and was interviewed by the London Times. When I got on the
7 airplane with my dad to go to Florida to see some spring
8 training, I bought a copy of the Wall Street Journal, and I
9 had the interesting experience of handing the Wall Street
10 Journal to my dad so he could read about me. That was quite
11 -- that was quite an experience just between my dad and I.

12 MAGISTRATE JUDGE BAKER: What did he think about
13 that?

14 JUDGE MCKINNEY: Well, he was pretty pleased. But
15 he was never one to -- well, he was always one to tell you
16 "Don't get too excited about seeing your name in print. You
17 live by the ink, you die by the ink" he used to say. You
18 don't want to let what's in the paper make you more or have
19 any effect on your day's happiness level.

20 MAGISTRATE JUDGE BAKER: What was your ruling in
21 that case?

22 JUDGE MCKINNEY: I sent them back to England.

23 MAGISTRATE JUDGE BAKER: Not to jump too far ahead,
24 but you have a very, very strong relationship with your
25 father, as you mentioned --

1 JUDGE MCKINNEY: I do.

2 MAGISTRATE JUDGE BAKER: -- last time we sat down
3 and spoke. How old is he today, and what's he doing?

4 JUDGE MCKINNEY: He's 95 years old. He'll be 96 in
5 August. He lives in assisted living in Columbus, Indiana, and
6 he's still fathering me. But about three years ago, he said
7 to me, "So, Larry, this district court thing, that it for
8 you?" I still laugh about that.

9 I swore in a bunch of lawyers not too long ago, and
10 I said, "Your parents will never know what you do, and here's
11 an example." But I thought it was interesting, and I began to
12 think about that actually. I didn't just write it off. I
13 began to think about, well, maybe there -- maybe I can use my
14 energies in various areas, one of which I determined maybe I
15 ought to crank up my international travel a little bit or
16 maybe look at different areas. I'm still thinking about it.

17 MAGISTRATE JUDGE BAKER: And you would see him --
18 you see him very frequently. You still do, as I recall. But
19 didn't you have a situation where maybe Wednesday nights you'd
20 get together with him?

21 JUDGE MCKINNEY: Yes, we used to go -- when he was
22 healthy and still living independently with his wife, I'd go
23 down every Wednesday night, and we'd go out and have a couple
24 beers and talk about the world and interesting ideas. He was
25 always one with ideas.

1 I remember being 12 years old riding in the car, he
2 and I, and he said, "You know, there are three levels of
3 conversation. The lowest level is talking about people. The
4 next level is talking about things, and the highest level of
5 conversation among human beings is about ideas."

6 I thought, wow, that's really significant. And he
7 said -- then he said to me, "In which of those conversations
8 do you think you ought to be spending most of your time?"
9 Well, you know, you don't have to hit me between the eyes with
10 a board. I thought that was really -- I say that to him now.
11 I'll say "Dad, do you remember when you told me that?" And
12 he'll say "No, did I say that?" And I'll say "yes," and he'll
13 just grin.

14 MAGISTRATE JUDGE BAKER: In 1987, Ronald Reagan
15 nominated you to a position on the District Court in the
16 Southern District of Indiana. Can you tell us a little bit
17 about how that came to be?

18 JUDGE MCKINNEY: Yes, I can. Judge Noland went
19 senior status, and when I found that out, that's what I wanted
20 to do. I had a couple of opportunities to think about the
21 Indiana -- or to think about an appellate situation. I was
22 kind of thinking about if a trial judge wants to be an
23 appellate court judge.

24 I thought about that for a little bit, and I thought
25 no, I think the next change for me would be to go to be a

1 federal district court judge, because I like the trial bench,
2 even though it was absolutely wearing me out. I thought that
3 would be the next step, and when I found out that that was
4 going on, then I did everything I could to be sure that I knew
5 how to apply.

6 At the time, there was a Merit Selection Commission.
7 It was made up of various individuals, the Chief Justice of
8 the Indiana Supreme Court, Richard Givens; three or four
9 business people from around the state; a representative, I
10 think from Lugar's -- from Senator Lugar's office; and several
11 others. You made your application. You fill out their form,
12 and then you send in your application to the Chairman of the
13 Commission, Judge Ryan, of the Marion County Circuit Court.

14 MAGISTRATE JUDGE BAKER: Marion Circuit Court.

15 JUDGE MCKINNEY: Yes, Marion Circuit Court was on
16 that team. And then you'd be -- they would cull through
17 those applications and get it down to a list of ten, and then
18 they'd interview those ten people. And so they did. They
19 interviewed those ten people, and John Tinder had applied at
20 that time, as had the Circuit Court judge from Brazil, Ernie
21 Yelton; and a Circuit Court judge, I think, from Putnam
22 County, Tom Millikin, who was a wonderful trial judge -- just
23 an excellent trial judge, very bright, very prompt, very
24 insightful, wonderful trial judge as was Ernie Yelton and Bill
25 Lawrence was among those people.

1 So the Merit Selection Commission then interviewed
2 all of us and narrowed it down to five, and those five were
3 just the five I just mentioned: Bill Lawrence, Judge
4 Millikin, Judge Yelton, and John Tinder and I. And about that
5 time -- well, at that time then, not long after the Merit
6 Commission had narrowed it down to five, Judge Steckler went
7 on senior status. And the Merit Selection Commission decided
8 that they would not reissue an invitation for applications,
9 but they would make two recommendations out of that five
10 instead of one, which I thought was a very positive, positive
11 thing for my future.

12 All five of us went to Washington, D.C. for
13 interviews by the Attorney General's office, and the Attorney
14 General would -- his job was to have us interviewed by many of
15 his deputies. That was a day-long process with various deputy
16 attorney generals or assistants. Then he would meet with all
17 those individuals, and then he would recommend that the
18 President nominate these two folks for the job and send the
19 names over to the Senate to begin the Senate process. So I
20 remember when I went out to Washington, I took the family.

21 MAGISTRATE JUDGE BAKER: When you went out for, for
22 which?

23 JUDGE MCKINNEY: For my hearings.

24 MAGISTRATE JUDGE BAKER: For the confirmation
25 hearing?

1 JUDGE MCKINNEY: No, for the interviews. Dad and I
2 flew out for the interviews. We had a wonderful time. I had
3 my interview. I was scheduled to fly out of Washington, D.C.
4 About 4:30, and my last interview was at 2:00. And this guy
5 just took forever. He just took forever, and I finally said,
6 "I've got to go, because I've got to be at the airport at
7 4:30." And I think he finally finished with me at 4:00
8 o'clock.

9 I thought that was an unsatisfactory interview, and
10 so I got a taxi. And I said to the taxi driver, "Another \$20
11 to get me to the airport by 4:30." And if you've ever ridden
12 in a cab in D.C. --

13 MAGISTRATE JUDGE BAKER: I have. It's a
14 hair-raising experience.

15 JUDGE MCKINNEY: It can be, and I had never been in
16 a cab where we drove on the sidewalk before but he got me
17 there. And I got there just in time to be standing in line to
18 go into the airport, and Dad said, "How did it go?" I said,
19 "Stick a fork in me 'cause I'm done." I thought the process
20 was all over, but as it turns out, it was not. And John and
21 I, Judge Tinder and I, our names both went over to the White
22 House at the same time. And Governor Daniels was advisor to
23 the President at the time, and had a great deal to do with
24 assisting the President on his selections. So then we got
25 sent over to the Senate and we were invited out for a hearing.

1 MAGISTRATE JUDGE BAKER: Let's talk about that for a
2 second. When you went out there, it's my understanding you
3 didn't stay in any fancy Washington, D.C. hotel.

4 JUDGE MCKINNEY: No, actually we did not. We drove
5 out and took the trailer. Dad had an Airstream trailer. We
6 took it out. Dad went with us, both kids, and Carole, of
7 course, and our dog. Our dog, Molly, was -- she was about 12
8 years old at the time. She was blind and diabetic. We had to
9 give her shots every morning and every night, had to follow
10 her around with a little pan and get the urine, and then you'd
11 dip the tester strip in the urine, and that would tell you how
12 much insulin to give her. So we went to a KOA.

13 MAGISTRATE JUDGE BAKER: Campground?

14 JUDGE MCKINNEY: A KOA campground just outside of
15 town. It was close enough. It was in short driving distance to
16 the Metro. So I had one of my interviews by the pool at KOA
17 over the phone next to the air conditioning unit, and so I
18 don't know how the guy could hear me, but we had an interview
19 over that. Then I took -- I had a day where we would go in
20 and interview various administrative agencies.

21 I took Josh with me, and we had quite a time on that
22 day seeing all these individuals and going to these various
23 places. It was an awful lot of fun. We had the hearing
24 itself. One of the secretaries that I met that day said to
25 me, "Where are you staying?" And I said, "I'm at the KOA."

1 And she just about -- well, she was flabbergasted. She said,
2 "I've never heard of anybody staying there. This is a
3 once-in-a-life-time thing." And I said, "Well, I've got this
4 dog," and we started talking about my dog. And she said,
5 "Well, you know, my mother raises Australian shepherds, and
6 she's getting ready to go into assisted living and she's got
7 two. Would you take them?" I said, "You know, I don't think
8 so. I don't think so."

9 MAGISTRATE JUDGE BAKER: Molly was an Australian
10 shepherd?

11 JUDGE MCKINNEY: Molly was Australian shepherd.

12 MAGISTRATE JUDGE BAKER: And the secretary was a
13 secretary to who?

14 JUDGE MCKINNEY: I think she was in the Attorney
15 General's office.

16 MAGISTRATE JUDGE BAKER: So you almost got a job and
17 a dog?

18 JUDGE MCKINNEY: Yes. She said to me, "You know,
19 you're not like the others." And I said, "I'm not sure if
20 that's good or if that's bad."

21 MAGISTRATE JUDGE BAKER: But it may have been
22 accurate?

23 JUDGE MCKINNEY: Yes. And on the day of the
24 hearings, I was in a rotisserie baseball league, and I had one
25 of my player's on the disabled list. He was a pretty good

1 player. I can't remember who it was. I was at the Union
2 Station there not far from the Senate office buildings where I
3 was going, but I stopped there and used the phone and made a
4 couple of trades on my rotisserie baseball team. But the
5 hearing itself, Senator Lugar and Senator Quayle both came
6 over to the hearing, and I was there with a another judge who
7 just went senior status.

8 I saw him the other day. He was from New York, David
9 Larimore, who has since distinguished himself on the bench.
10 He'd been a magistrate. So he was there, and I was there at
11 the same time. We walk into the Senate hearing. I meet David,
12 and we meet David's wife. And she turns to my dad and says,
13 "Hi, Mr. McKinney." And Dad said, "Well, hello," and it
14 turned out that she had gone to Saint Mary's and had student
15 taught at the same school where my dad had been principal. So
16 they were thrilled to see each other; not only that, but my
17 wife and David's wife had on the same dress. Senator Strom
18 Thurmon, I think it was.

19 Before the hearing, the Senator, the chairman of the
20 committee came out and shook hands with both of us and said to
21 me, "Is that your wife, Judge?" And I said, "Yes, Senator, it
22 is." He said, "Fine looking woman." I said, "Thank you,
23 Senator." So I went back over and I said to Carole, I said,
24 "I think we're off on the right foot."

25 MAGISTRATE JUDGE BAKER: So anything else about the

1 confirmation hearing that you recall?

2 JUDGE MCKINNEY: No. The questions were, in the
3 words of the Senator's aides, softballs.

4 MAGISTRATE JUDGE BAKER: Now, you and John Tinder
5 went through it at the same time, but you did manage to get
6 voted on just before he did.

7 JUDGE MCKINNEY: I did, and that remains a mystery
8 to me. I don't know what the explanation for that is.

9 MAGISTRATE JUDGE BAKER: Was that the source of some
10 good-natured ribbing over the year?

11 JUDGE MCKINNEY: Oh, absolutely, absolutely. I
12 think it was, but I think now that Judge Tinder's on the
13 Seventh Circuit Court of Appeals, I think he's finally
14 forgiven me for coming out maybe two weeks earlier than he
15 did.

16 MAGISTRATE JUDGE BAKER: And as a result of that, he
17 avoided having to be Chief Judge here.

18 JUDGE MCKINNEY: Not only did he avoid having to be
19 Chief Judge, he got to the Seventh Circuit, which would have
20 made his father, with whom he was always very close, would
21 have made his dad extremely proud.

22 MAGISTRATE JUDGE BAKER: You mentioned that you were
23 appointed to fill the position of Judge Noland, but didn't you
24 actually fill Judge Steckler's position?

25 JUDGE MCKINNEY: I'm not sure that that's true. I

1 think -- it's interesting because you don't really know with
2 both of them having gone senior at the same time. Judge
3 Tinder, because I came out first, went into -- we first
4 started out in the same chambers, John and I, which was a
5 brand new chambers. But then as the senior judges took less
6 and less and finally retired, Judge Tinder then went into
7 Judge Noland's chambers, and I came down to Judge Steckler's
8 chamber. But it was only because of that two weeks of
9 seniority.

10 I don't really know how that works out. We think of
11 if in our lives. As we talk about it, I would say that I came
12 in and took the position that was vacated by Judge Steckler.

13 MAGISTRATE JUDGE BAKER: That was my understanding.

14 JUDGE MCKINNEY: Yes.

15 MAGISTRATE JUDGE BAKER: So what was it like to know
16 about the federal court and know about the likes of Judge
17 Noland and Judge Steckler and Judge Dillin, and then wake up
18 one day and realize they're your colleagues or you're
19 following them?

20 JUDGE MCKINNEY: I'll tell you, it took a while to
21 adjust. I could never call Judge Dillin by his first name. I
22 could never refer to Judge Steckler as Bill. I could never
23 have called Judge Noland, Jim. In fact, we got a Christmas
24 card in the Christmas of 1987 from Jim and Mary, and I could
25 not for the life of me figure out who that was. And I think I

1 finally asked Judge Barker, and she said, "Well, you idiot,
2 that's Judge Noland and his wife." But I remember another
3 example of that is -- I think it was our first or second
4 judges' meeting. It would have been more than that. This was
5 an October judges' meeting.

6 Judge Tinder asked me I was going to go to the World
7 Series because I am a baseball fan as is he. And I said, "No,
8 I just have too many things to do. I'm just too busy to go,
9 but I would have had a ticket." And Judge Dillin said,
10 "What's the matter with you, McKinney? It's not as if you
11 have to get elected."

12 MAGISTRATE JUDGE BAKER: Judge Dillin was always in
13 good humor.

14 JUDGE MCKINNEY: He almost always was, and he was --
15 these gentlemen were intimidating colleagues.

16 MAGISTRATE JUDGE BAKER: It sounds like they treated
17 you very well.

18 JUDGE MCKINNEY: Oh, my goodness, they treated me
19 extremely well, they really did. I remember the first
20 Judicial Conference I went to. It was Lake Geneva in
21 Wisconsin, and they had a double-decker bus for us to go from
22 place to place. And I was sitting up on the top of that
23 double-decker bus right in the front row, and in came Judge
24 Dillin and his wife.

25

1 Judge Dillin's wife was such a gracious woman, just
2 a wonderful woman. They sit down behind us, and she taps me
3 on the shoulder and said, "Are you Judge McKinney?" And I
4 said, "Yes." And she said, "Well, it's so nice to meet you.
5 Judge Dillin has spoken so highly of you." And he went, "Mary
6 Eloise, that'll be enough of that." It really was -- it was
7 delightful.

8 MAGISTRATE JUDGE BAKER: Well, that could be high
9 praise from Judge Dillin.

10 JUDGE MCKINNEY: Well, I thought it was. I felt
11 pretty good about that.

12 MAGISTRATE JUDGE BAKER: Was there anything that
13 surprised you more than anything else about your transition to
14 state -- from state to federal court?

15 JUDGE MCKINNEY: Well, I suspect that there was.
16 And what surprised me was the amount of -- I guess there's no
17 other word for it is -- power that you have as a United States
18 District Court judge that I did not have as a Circuit Court
19 judge. I've joked on occasion by saying that the difference
20 is when I was a Circuit Court judge, I could take a driver's
21 license.

22 When I was a Federal Court judge, I could take your
23 citizenship. I suppose that's literally true, but I remember
24 it struck me as I sat in my office in August of 1987. I had
25 been used to a Friday afternoon where I was overwhelmed with

1 work, and I would be totally exhausted. And they were still
2 shifting cases over to me, so I wasn't on the bench every day
3 at 8:30 to 5:00. But it came in the afternoon.

4 It was about 3:30 in the afternoon, and Rich Waples
5 walked in, and he had a temporary restraining order without
6 notice attached to a lawsuit filed by citizens of Chile
7 against a General of the Chilean army who was in the United
8 States with his horse in Edinburgh for the Pan American games
9 at the horse venue. It dawned on me that instead of the power
10 to throw somebody in jail for failure to pay child support or
11 to sort out a family crisis by putting the children here or
12 there or to sort out other domestic relations issues, in one
13 stroke of my pen, I could have brought the whole darn Pan
14 American games to a halt.

15 Well, that was a sobering thought. As I read the
16 pleadings in the case, it really was just absolutely amazing
17 what this case was about. And it brought out a real
18 controversy, not only of jurisdiction in the United States,
19 but also for the jurisdiction of this case. These were people
20 who had been -- allegedly had been killed by this general as
21 the administration of Chile. The presidential power of Chile
22 had changed, and people who were friends were now enemies.
23 And the allegation is this general had gone through some of
24 these prison camps and just killed people.

25 MAGISTRATE JUDGE BAKER: How do you do that as a new

1 federal judge sitting in your chambers with a TRO and no
2 notice and having to make a quick decision?

3 JUDGE MCKINNEY: Well, fortunately, I was able to
4 rely upon my judicial philosophy, which has come from the
5 Dolly Parton school of jurisprudence, which is "Don't take my
6 man just 'cause you can." So you think very strongly. You
7 think very long about the power you want to exercise and its
8 effects. And I listened to Mr. Waples as he argued his case,
9 and I said, "You know, the first thing that comes to mind is
10 my jurisdiction. I don't want to be in the position where I'm
11 a brand-new judge and I'm exercising jurisdiction that I don't
12 have."

13 So I started the research process. This was not
14 long after Judge Bork's tribulations at the hands of the U.S.
15 Senate. The pivotal case on jurisdiction came from the Second
16 Circuit where Judge Bork sat. That case involved individuals
17 from Jerusalem who had been victims of terrorism. The
18 American relatives of these victims had sued the terrorists in
19 the United States.

20 So the issue was how does a district court in the
21 United States of America have jurisdiction over these foreign
22 defendants based on foreign acts of terrorism? By a vote of
23 two to one, the Second Circuit, dissent by Judge Bork, the
24 Court found jurisdiction in the Judiciary Act of 1789. That
25 Act was urged into law by Thomas Jefferson in order to confer

1 jurisdiction on U.S. District Courts over pirates preying on
2 shipping off the coast of North and South Carolina, Florida,
3 and in the Caribbean Sea.

4 The question was, is that the same thing? Are these
5 modern-day terrorists akin to pirates so as to confer
6 jurisdiction over these foreign events? Again, by a vote of
7 two to one, the answer was yes. Judge Bork thought otherwise.
8 He said no, because the act said pirates and terrorists, like
9 the defendants, were simply not pirates. Pirates are pirates,
10 he said. This was the law I was addressing. There was
11 another case, but it was not much help.

12 As I was concerning myself with this jurisprudence,
13 the general and his horse went back to Chile. As a sidelight,
14 it might be interesting to note that the horse involved, I
15 think his name, appropriately enough, was Diablo. He had been
16 very difficult to handle and had terrorized the stables.
17 Whether the General caught wind of the case, I do not know.

18 Of course, because we hadn't yet been served, we
19 didn't have any jurisdiction over them at that time. I never
20 really ever had to make the decision, but the experience was
21 one I will long remember. I will always wonder what would
22 have happened had I attached old Diablo.

23 MAGISTRATE JUDGE BAKER: So officially, the issue
24 became moot?

25 JUDGE McKINNEY: Officially, the issue became moot.

1 MAGISTRATE JUDGE BAKER: Do you remember your first
2 trial on the federal bench?

3 JUDGE MCKINNEY: No, I don't, but I know that I was
4 a little apprehensive about it, because I wondered if the
5 skills that are developed by a trial judge in the state court
6 would translate easily into the skills necessary to be a
7 successful Federal District Court judge, and I really was
8 surprised and pleased that they did.

9 MAGISTRATE JUDGE BAKER: You have had countless
10 trials on the federal bench. You've had countless cases. Do
11 some of those come to mind as notable cases or interesting
12 cases?

13 JUDGE MCKINNEY: Well, you know, I do recall some
14 interesting cases. When you say "notable" I pause because as
15 you know, the press doesn't cover the courts anymore except
16 for -- I don't know what the criteria is now, but we don't see
17 the press very much. What I may think is notable might be
18 different than what you or they might think is notable.

19 I've had some really interesting patent cases to
20 try. One was an invention by a Vietnamese man, a new citizen
21 of the United States. He worked for an Indiana company. He
22 developed a method to make the lid of an aluminum can a
23 millimeter thinner than before. I was astounded to hear how
24 much money could be saved by a company that makes a beer can
25 lid or the soft drink can's lid just by using a lid one

1 millimeter thinner.

2 Another case involved the Best Lock Company here in
3 Indianapolis in which I was privileged to sit as judge as the
4 inventors from -- as the number one individuals in the
5 lock-and-key business across the country told me about their
6 personal history and the history of their companies. It's
7 fascinating to hear of the development of the changing
8 technology.

9 Mr. Best was a real pioneer in the area. I learned
10 to know some of these industries in a depth that I never would
11 have known otherwise, and it's really quite a privilege. But
12 those are all -- every patent case I've had I've found to be
13 very, very interesting, from the design of tennis shoes to the
14 design of the little portable oxygen tank that you see being
15 carried around by individuals who are having difficulty
16 breathing, to the device that can test the amount of sugar in
17 your blood, to the valve that in junior high school showers
18 provides the perfect temperature every time.

19 I learned many things about many different types of
20 valves. My position often provides me with seminars on arcane
21 subjects. The most complex case I have had was a drug
22 conspiracy in which the defendants were accused of killing the
23 informant. We went to the jury with ten defendants in about
24 three months.

25 MAGISTRATE JUDGE BAKER: Was that the Ghetto Boys

1 case?

2 JUDGE MCKINNEY: No, this was -- they ended up
3 calling this by a different name than that. And I remember
4 what it was called, but it's kind of disrespectful. It was
5 called the 59ers case because the main defendant had owned, I
6 think, a bar by that name, the 59ers. But it was a very
7 complicated case, excellent lawyers on both sides.

8 As I mentioned, it took about three months to try.
9 We would meet almost every morning to go through what was
10 going to happen that day and make sure that the record would
11 be complete; and, in my opinion, flawless. That was a very
12 interesting case.

13 MAGISTRATE JUDGE BAKER: A three-month long,
14 ten-defendant criminal case?

15 JUDGE MCKINNEY: Right. We had to move the jury box
16 to the other side of the courtroom. I asked GSA, Government
17 Services Administration --

18 MAGISTRATE JUDGE BAKER: Why did you have to move
19 it?

20 JUDGE MCKINNEY: Because I had to find a place for
21 all defendants and their lawyers. I had a platform built to
22 accommodate all the parties on the left-hand side away from
23 the entrance doors on the right so that logistically, the
24 parties and the jurors and the marshals could safely move in
25 and out.

1 So I asked the Government Services Administration
2 how much it would cost me to move the jury box from the left
3 side to the right side. They gave me the astounding figure of
4 around \$20,000. So I asked Kent Halberstadt about that. He'd
5 been room deputy for Judge Steckler, and he said, "Oh, there's
6 wheels under the box." So Kent and I physically moved it. We
7 just scooted it across the rug in the courtroom, thereby
8 saving the taxpayers of the United States \$20,000.

9 MAGISTRATE JUDGE BAKER: I mentioned the Ghetto Boys
10 case.

11 JUDGE MCKINNEY: Yes, I had -- when I first got
12 here, we had the largest marijuana conspiracy that had ever
13 been filed here.

14 MAGISTRATE JUDGE BAKER: Was that the Hildebrand?

15 JUDGE MCKINNEY: Hilebrand. Hilebrand was the name
16 given to the whole case, but I can't tell you today how many
17 defendants there were, but I divided that up into sections. I
18 think the one section that went to trial, I think, had five
19 defendants.

20 Defendants ranged from individuals whose only crime
21 was counting the money, to the individuals who took a barge
22 and went from Mobile, Alabama to Columbia, bought the pot, and
23 sealed it up in the hull -- or the bottom of this barge and
24 brought it all the way back. They did three of those trips,
25 as I recall -- to the truck drivers who unloaded the pot and

1 put it in their trucks, to the guy who was in charge of an old
2 gym in the Northwest part of the state in which they stored
3 much of the stuff, and many of the salesmen up and down the
4 chain. It was absolutely fascinating.

5 MAGISTRATE JUDGE BAKER: That was the case in which
6 a lot of the defendants had colorful nicknames, wasn't it?

7 JUDGE MCKINNEY: Yes, they did. They all had
8 colorful nicknames, and in the search or anonymity, they hate
9 to go without some recognition. So they pick or are assigned
10 all manner of colorful names.

11 MAGISTRATE JUDGE BAKER: Moon Dog?

12 JUDGE MCKINNEY: Yeah, Moon Dog and all kinds of
13 others. That was a significant case. There have been, over
14 the years, a lot of significant criminal cases, both here and
15 in Terre Haute. I have never gone to New Albany and rarely
16 been to Evansville. I've covered mostly Indianapolis and
17 Terre Haute.

18 MAGISTRATE JUDGE BAKER: Any other notable cases or
19 other cases you want to mention?

20 JUDGE MCKINNEY: Well, as I think about civil cases,
21 we've had some environmental cases that have been very
22 complicated, very challenging. Again, I think the measure of
23 the judge is not found in the number of cases that caught the
24 public eye. It's still found in the reasonable hour that you
25 come in and the reasonable pace in which you work and the

1 reasonable time in which you go home and whether you rule by
2 the law and treat people with respect. I still think that's
3 the measure.

4 MAGISTRATE JUDGE BAKER: We talked before about some
5 of the differences between state and federal court. One of
6 the differences, hopefully a good one, was that you had law
7 clerks as a federal court judge.

8 JUDGE MCKINNEY: Yes.

9 MAGISTRATE JUDGE BAKER: Can you describe what it's
10 been like to hire these new lawyers, watch them grow up
11 professionally, personally, over your years on the bench?

12 JUDGE MCKINNEY: Well, there are two great perks of
13 being a district court judge that in my mind stand out -- and
14 I don't mean to diminish the office at all -- but one is a
15 parking place right there undercover next to the building or
16 in the building. And the other much more significant perk is
17 the opportunity to work with new lawyers as law clerks. I
18 find that to be not only rewarding, but life-changing as I
19 watch individuals from resumes to maturity. Individuals I
20 don't know from Adam come into the chambers and continually
21 distinguish themselves.

22 I have attempted to put clerks into a position in
23 which their strengths would be honed and appreciated. I
24 admire good writers, and as my dad has always said, "There is
25 no substitute for brains." Early on I begin to think of my

1 clerks as family. I know their spouses, and I celebrate the
2 births of their children. I've been to many of their
3 weddings. They are all different, and I have learned much
4 from them all. I have enjoyed this gift from the younger
5 generation.

6 It is also true that if you Google my name or if you
7 go to Westlaw and type me in, you'll get a ton of hits, just
8 an overwhelming number of hits. And you'll think, wow, that
9 McKinney, what a prolific writer. But upon further inquiry,
10 you will find that is not true. Most of the time my name
11 pops, it is found in resumes of law clerks. This is true,
12 because many of my law clerks have written scholarly articles
13 contributing to jurisprudential areas.

14 It is difficult to describe the vicarious joy I get
15 when a law clerk goes on to distinguish himself or herself,
16 publishes a helpful note, receives an award, teaches, assumes
17 a position of leadership in the Bar, or conducts a respected
18 and civil dispute resolution practice.

19 MAGISTRATE JUDGE BAKER: This year, you marked 30
20 years on the bench.

21 JUDGE MCKINNEY: I did.

22 MAGISTRATE JUDGE BAKER: That had to give you pause?

23 JUDGE MCKINNEY: It absolutely did, and one of the
24 reasons that it did was, and I may have mentioned this, I
25 don't know. But the first state court judge's conference I

1 went to, they were celebrating Felix Call's 30 years on the
2 bench. Judge Call had been on the bench for 30 years in Lake
3 County, which I thought was an awfully wonderful fete. So I
4 said to myself, "That's it. I'm going to do that. Thirty
5 years, that's my goal."

6 Well, I hit that goal. Now I have to reassess.
7 I've got to look again at what my goals will be, especially in
8 the light of my dad saying last year, "So, this district court
9 thing, is that it for you?"

10 MAGISTRATE JUDGE BAKER: That's what your dad said.
11 What do you think your mom would say knowing that you had been
12 a judge for 30 years?

13 JUDGE MCKINNEY: I think that's an interesting
14 question. My mother died in '85, and she didn't get to see
15 the swearing in, although she was quite proud of the fact that
16 I had managed to get elected to circuit court.

17 She was a woman who did not value athletics much.
18 All the basketball and baseball and sports I've played as a
19 kid, she never went to any of those games. But I remember
20 when I was a senior in high school, the question was, am I
21 going to be inducted into the National Honor Society? Well, I
22 didn't know. I rather doubted it.

23 On the morning of the selection, I went down to
24 breakfast, and there's my mother in her robe. And I can see
25 that she had her hose on, and so I said to myself, "I'm in,

1 because Mom would have hose on if she were going to attend."
2 And she did. She taught us all the value of reading and the
3 value of intellectual conversation.

4 I remember I never did learn the rules of grammar
5 until I was in high school, because she was so good at it and
6 she knew the rules so well, I just -- on the test, I just did
7 what sounded right. And that was always right, because that
8 was the -- that was the example that she had set.

9 So she would have been pleased. She would have been
10 very pleased, although probably not as pleased as she would
11 have been if she had lived to see my sons get their education
12 and see the love of learning they have and see how much my
13 grandkids, her great grandkids enjoy reading. That would have
14 pleased her even more, I think, than a simple accomplishment
15 or appointment or election. She was interested in values
16 being reflected in your life.

17 MAGISTRATE JUDGE BAKER: Speaking of reading, you're
18 a voracious reader.

19 JUDGE MCKINNEY: I am.

20 MAGISTRATE JUDGE BAKER: Does that come from her,
21 you think?

22 JUDGE MCKINNEY: Oh, yes.

23 MAGISTRATE JUDGE BAKER: You are always reading a
24 book. What kinds of books do you read? It seems to me that
25 you read just about everything.

1 JUDGE MCKINNEY: Yes, I do. I like a lot of
2 different things. I think I could -- my wife and I have been
3 in the same book club at Franklin College since the fall of
4 1971.

5 MAGISTRATE JUDGE BAKER: Do you keep a list of all
6 the books you've read?

7 JUDGE MCKINNEY: No. Gosh, I don't. I'd have run
8 out of paper and ink a long time ago. No, I don't. We've
9 just read all kinds. In this book club, we've been privileged
10 to have scientists, economists, English professors, social
11 workers, various people. They all make me read in areas and
12 about things I would never have read.

13 I enjoy reading just about anything. I've read a
14 lot of just mystery things and some of the classics. I could
15 go on. If I had a list, I could carry on. I was privileged
16 once to give a graduation address at IU Law School down in
17 Bloomington where I graduated.

18 The first thing I did was I told them that we are
19 attending our first graduation because I didn't go to mine.
20 But anyway, I gave them a reading list, just books that they
21 ought to read that are challenging books. As lawyers, we need
22 to read books about the phenomena that we all observe, that
23 people can look at the same thing and see it differently.

24 As lawyers, we need to read about that. I've often
25 given talks and quoted Anton Chekhov, who was the great

1 Russian playwright, who also had a book of short comedic
2 stories. The point for him was the comedy that resulted from
3 the fact that people see things so differently.

4 Lawyers need to realize that many of the conflicts
5 to which they are exposed have a basis simply in the fact that
6 people view the same things differently or draw different
7 inferences from the same facts. These inferences are often
8 fueled by personal experience or interest, bias, or protection
9 of self rather than common sense. These differences can and
10 do cause disputes.

11 So Chekhov is right. We lawyers can take from
12 Chekhov the caution that we be the ones that see the facts
13 correctly. All my readings are not so serious. I read some
14 silly prose now and again.

15 MAGISTRATE JUDGE BAKER: For example?

16 JUDGE MCKINNEY: Do you remember the book "Even
17 Cowgirls Get the Blues"?

18 MAGISTRATE JUDGE BAKER: Tom Robbins.

19 JUDGE MCKINNEY: I've read every Tom Robbins book
20 there is, and I think Tom Robbins is just delightful. And
21 others would think that if I like Tom Robbins, maybe I should
22 be committed.

23 MAGISTRATE JUDGE BAKER: He's a very talented and
24 funny writer.

25 JUDGE MCKINNEY: He is a very funny writer. I've

1 read them all. Some are better than others, but he's just
2 delightful.

3 I remember as a kid I read H. Allen Smith. Have you
4 ever heard of H. Allen Smith? He wrote this wonderful book
5 called "Life in a Putty Knife Factory." I'm sure it's been
6 out of the print for years, but as a kid, I picked it up and I
7 died laughing. It's just hysterical all the way through it.
8 I read some Bennett Surf when I was a kid that I thought was
9 really, really good. And I also read "Raintree County," a
10 much more serious book.

11 The Hoosier author's name escapes me, but that was a
12 book in which every chapter was different. Each chapter
13 represented a different story line. I thought that was just a
14 spectacular, yet disturbing book.

15 My mother was always handing me something to read.
16 I would rather read than do homework. I remember a perverse
17 goal as a child was to go K through eighth grade without doing
18 any homework. I managed to do that, but I suffered a couple
19 of times by not getting the grades that I probably could have
20 gotten in the class. But my goal of no homework was more
21 compelling than whether I got a good grade or not.

22 MAGISTRATE JUDGE BAKER: In July of this year, you
23 plan to take senior status.

24 JUDGE McKINNEY: I do.

25 MAGISTRATE JUDGE BAKER: What thoughts do you have

1 as you approach that time?

2 JUDGE MCKINNEY: Well, you have several thoughts.
3 One is what do I owe my colleagues while the Senate is
4 deciding how to fill that job? This is one of the busier
5 district courts in the country in terms of caseload. So if I
6 said as of July 4th, I'm going to give away all my cases
7 except for half of what you have, on both the civil and the
8 criminal, that would put a pretty good load on everybody else.

9 So I'm going to work my caseload down till it gets
10 to half, I guess. I'm going to stay on the criminal draw
11 full-time until I get a replacement. I will have some new
12 thoughts, I suspect, but the question is then how many more
13 years am I going to go? I'm not a hundred percent certain,
14 but I'm pretty close to thinking not very much longer.

15 I think that my energy can be spent in other things.
16 I might get into High School education. This court will go
17 along just fine. Judge Hamilton's replacement will be fine,
18 mine will be fine, and there will be more judges here than
19 there have been for a while and everything will be fine.

20 I guess the point is, they'll get along fine without
21 me, but those kinds of things have gone through my mind. How
22 do I want to spend my day? I've got grandkids -- twins, four
23 years old, and I really enjoy their company. I'd like to
24 travel a little bit more, and I told my secretary once that I
25 think what I'll do is I'll get up every morning and get the

1 newspaper out and work the Sudoku puzzle. And if I can work
2 it, I'll go in, and if I can't, I'll stay home.

3 MAGISTRATE JUDGE BAKER: You mentioned your
4 grandkids. For the record, that's Josh's kids?

5 JUDGE MCKINNEY: Yes, Josh.

6 MAGISTRATE JUDGE BAKER: His wife's name?

7 JUDGE MCKINNEY: His wife's name is Rachel.

8 MAGISTRATE JUDGE BAKER: The two kids' names?

9 JUDGE MCKINNEY: LJ is the little boy. Lawrence
10 Jackson, he's named after his grandpa. My name is Larry. My
11 dad's name is Lawrence. The little girl's name is Helen. My
12 mother's name was Helen. Carole's mother's name was Helen. I
13 told my dad that they'd name this little boy after him, and he
14 grinned. And I said that they named the little girl after
15 Mom, and he sat down and was very quiet. And I still choke up
16 on the notion just a little bit. I am still very touched, as
17 is Carole, when we consider that the little ones are named
18 after parents.

19 MAGISTRATE JUDGE BAKER: Now, Andrew's not married?

20 JUDGE MCKINNEY: One more thing about Dad and this
21 job. Dad was 91 years old when they were born -- 92, he was
22 when they were born. And he drove up to see them at the
23 hospital. On his way home, he got pulled over by a state
24 trooper for speeding. The officer pulled him over, and he said
25 "Do you know why I pulled you over?" Dad said, "Yes, I was

1 speeding." He said, "Do you have an explanation for that,"
2 the officer said? And Dad said, "I was just visiting my great
3 grandson who was named after me, and I was thinking about the
4 high honor that that is and wasn't paying attention to the
5 speed." And the trooper said, "Well, you just be careful" and
6 sent him on his way.

7 MAGISTRATE JUDGE BAKER: That's wonderful. Just to
8 wrap that up, your other son, Andrew, has no children?

9 JUDGE MCKINNEY: Andrew doesn't have children.
10 Andrew's not married. Never been married.

11 MAGISTRATE JUDGE BAKER: He lives in New York?

12 JUDGE MCKINNEY: He lives in New York. He's now a
13 doctoral student in sociology, enrolled in the City College of
14 New York, Graduate Center.

15 MAGISTRATE JUDGE BAKER: It sounds like he's got
16 some of his mom's influence?

17 JUDGE MCKINNEY: Some of his mom's, some of his
18 grandmother's.

19 MAGISTRATE JUDGE BAKER: Now going back to the
20 grandkids for a minute. You really seem to be awfully taken
21 by those grandkids.

22 JUDGE MCKINNEY: I am, but then I've always enjoyed
23 kids. And to have grandchildren is amazing. Fellow
24 grandparents, it's like being in a new fraternity. When you
25 get married, you're in a new fraternity, and people that are

1 married, you share stories with. And then you become a
2 parent, that's another expanding of your horizons. And then
3 you become a grandparent, that's something else entirely. So
4 it's just -- it's quite delightful.

5 MAGISTRATE JUDGE BAKER: It looks like just as you
6 spend a lot of time with your father, you make a lot of time
7 to spend with your grandkids, too.

8 JUDGE MCKINNEY: I do, I do. And interestingly,
9 fellow grandparents always say grandkids are so much fun, if
10 I'd have known it, I'd have had them first. Of course, the
11 fact that you didn't have them first makes them more fun. And
12 you have time with them. How many times do you go home with
13 your own kids?

14 I would meet -- I would be met at the door by Andrew
15 almost every night, and he'd throw me my mitt. And I'd be in
16 the backyard throwing the baseball with Andy with my jacket
17 and tie on because I wasn't even permitted to sit down.

18 I'll give you another thing I think is important.
19 You were talking about the transition between the state and
20 federal. I had been judge for a year, and Andy met me at the
21 door, and he had a list in his hand. He said -- and this was
22 1988, so he's eight years old. And he hands me this list and
23 he says "We have to talk." And I had said, "Oh, what seems to
24 be the subject?"

25

1 He hands me this list, as I said, and there's
2 nothing on this list but dates. "Each one of those dates," he
3 said, "Dad, are nights you haven't been here in the last
4 year." Now, he says, "I appreciate you got a new job. I
5 appreciate you're not nearly as grouchy as you used to be, and
6 I appreciate that you don't sleep all weekend anymore. I do
7 appreciate that. But these are nights you haven't been here,
8 and this is not acceptable." Eight years old.

9 Well, you know, what a message that was to me,
10 because I had been to this conference, I had been to that
11 education program. I had been taking advantage of all these
12 wonderful opportunities for a new federal judge. I had not
13 considered anyone but myself as I went about my new path. It
14 is good to have a family that will rein in the Dad. So I had
15 to change my ways after that.

16 MAGISTRATE JUDGE BAKER: Kids will redirect you when
17 necessary.

18 JUDGE MCKINNEY: Well, they do, and I think that's
19 -- the same thing is true of grandkids. They will remind you
20 again of what is important in life. We're not in this to go
21 in the office and hit home runs every day. It's one of the
22 most important things.

23 One of the levelers in your life is relationships.
24 Small reconciliations are at least as good as home runs.
25 Relationships with children really provide a wonderful way to

1 not only let you see what's important in life, but bring you
2 back to the basics. I don't know of anything in my life
3 that's ever been -- it's always been relaxing to me to hold a
4 child. That's always been a wonderful experience, and then if
5 the child goes to sleep on your shoulder, your heart goes
6 slower, you just -- it's just a wonderful thing. But to have
7 a little boy on your left and a little girl on your right and
8 both of them with their heads on your shoulder and both of
9 them asleep, that's just about as good as life gets, as you
10 well know, Mr. Baker.

11 MAGISTRATE JUDGE BAKER: As I well know. Let's talk
12 a little bit more about the legal side of things and talk a
13 little bit about your approach to other lawyers; and frankly,
14 your reputation and/or legacy.

15 I'm going to throw something out there and give you
16 an opportunity to agree with me or disagree, but I believe you
17 have a reputation as a lawyer's judge, a judge who is willing
18 to give lawyers some leeway when they try their case, even if
19 they do so at their own peril, someone who is kind and civil
20 toward lawyers, will even joke around with lawyers but
21 nevertheless recognizes that the trials are serious and the
22 law's a serious business. Do you think that's an accurate
23 characterization, or how would you modify that?

24 JUDGE MCKINNEY: I think that human beings, lawyers
25 respond better when they're relaxed than when they are tense,

1 and I think when you consider the responsibility on the
2 shoulders of the lawyers as they appear in your courtroom --
3 or I should say the courtroom -- the courtroom over which you
4 preside, as you consider the tremendous responsibility they
5 have, I think it's a part of the judge's role to set a tone of
6 civility and set a tone of relaxation in that courtroom so
7 lawyers can concentrate on the matters of representation
8 instead of oppressive protocol. Some protocol is necessary,
9 of course.

10 Even so, one ought not to have to worry about
11 judicial tempers. I think that part of the way a judge shows
12 respect is the way in which the courtroom tone is set. Our
13 profession is constantly derided. Lawyer jokes abound.
14 Lawyers are portrayed as sharks, et cetera.

15 I expect lawyers to combat this derision by example.
16 When lawyers conduct themselves respectfully in the courtroom
17 by being prepared, by treating the client with respect, and by
18 understanding the law, they set the proper example. When
19 lawyers are prepared to advise clients realistically about
20 precedent, change their minds when they come to believe the
21 law and the facts require it and maintain the objectivity
22 necessary for professional practice, they go a long way in
23 strengthening the reputation of lawyers as a whole.

24 The dispute resolution system constitutionally
25 created as the third branch of government needs to be

1 respected and protected by lawyers and judges alike. This is
2 best done, in my view, in a relaxed courtroom.

3 MAGISTRATE JUDGE BAKER: But not every judge shares
4 that philosophy -- not necessarily around here -- but some
5 take a pretty stern approach to their duties behind the bench.
6 You don't seem to follow that approach.

7 JUDGE MCKINNEY: Well, one thing about being on the
8 bench, as soon as you're on the bench, you realize that you're
9 a part of history. You're a part of that stream of
10 jurisprudence that has flown from John Marshal -- I don't mean
11 to be that dramatic, but all the way down to here. And
12 everyone that's been on the bench has set an example, and
13 there's some pressure on you as a new judge to not foul that
14 up, to not become the Hoover Dam in the stream of
15 jurisprudence.

16 You get concerned about that, and individuals
17 respond to that pressure differently. Some respond to that by
18 sorting it out as a very serious matter, "I need to be
19 serious. You need to be serious." And there are all the
20 variations along that way.

21 Judges certainly are concerned about whether the
22 decision being contemplated is grounded in the law and the
23 facts. We all want our decisions to be respected, to bring a
24 reasoned closure. We want that decision to be just in the
25 classic sense.

1 MAGISTRATE JUDGE BAKER: You served on the Seventh
2 Circuit Committee on Civility.

3 JUDGE MCKINNEY: I did.

4 MAGISTRATE JUDGE BAKER: You and a bunch of other
5 judges --

6 JUDGE MCKINNEY: We did.

7 MAGISTRATE JUDGE BAKER: -- prepared a report that
8 is still today, I think, utilized and serves as kind of a
9 go-to guide for how people, lawyers, and judges should be
10 behaving.

11 JUDGE MCKINNEY: Right.

12 MAGISTRATE JUDGE BAKER: Why did you get involved in
13 that project?

14 JUDGE MCKINNEY: Well, I got involved because I got
15 asked by the Chief Judge of the Seventh Circuit, Judge Bauer
16 at the time. That's why I got involved, but I really looked
17 forward to it and enjoyed the interaction with Judge Aspen who
18 --

19 MAGISTRATE JUDGE BAKER: Who was the chair?

20 JUDGE MCKINNEY: -- was the chairman of that
21 committee, who is a senior judge now but a splendid trial
22 judge and a great administrator as Chief Judge up there for as
23 long as he was. And Steve Terry from the Indianapolis Bar was
24 involved in that and several others, and I really enjoyed it,
25 because I feel very strongly about the notion of civility.

1 Civility isn't just about lawyers being nice to one
2 other. It isn't just sitting down and having tea and
3 crumpets. It's about lawyers not getting themselves in the
4 way of their resolution. One gets in the way of the dispute
5 resolution process by asking vexatious or meaningless
6 questions in a deposition.

7 One gets in the way by needlessly arguing with
8 opposing counsel at a deposition or in court. Any action that
9 unnecessarily prolongs litigation, embitters it or adds to the
10 expense is uncivil, uncivil and unacceptable.

11 I, unfortunately, have many examples of incivility.
12 Most involve the discovery process or overly intense briefing.
13 Both can prolong the process. Both can personalize the
14 process. Lawyers can get so concerned about the office income
15 that we forget we are a profession and not a business.

16 One of the differences between a profession and
17 business is that there is more at stake in a profession than
18 the money. I know it is easy for me to say, because I have a
19 lifetime appointment, but consider that "Money is the way
20 people without talent keep score."

21 Consider this statement: "Civility is at least a
22 consideration of law as an honorable profession." So I think
23 that civility is particularly important, especially when put
24 in terms of the goal of the practice and how lawyers conduct
25 themselves in order to a meet those goals. These goals

1 include the economic and just resolution of disputes in which
2 respect for the resolution is so important.

3 The Seventh Circuit Rules of Professional Conduct
4 are a good read as well as a good guide. They represent input
5 from experienced lawyers and judges. They were created partly
6 out of a collective sense that lawyers can and indeed have a
7 responsibility to restore the reputation of the profession.

8 MAGISTRATE JUDGE BAKER: Another way you've
9 contributed to civility is through the Inns of court --

10 JUDGE MCKINNEY: Right.

11 MAGISTRATE JUDGE BAKER: -- which is a system that
12 Chief Justice Warren Berger initiated back in the day. You
13 helped create it here in Indianapolis. Can you talk about
14 that?

15 JUDGE MCKINNEY: Sure. I got a call one day from
16 Chief Judge Shepherd, Chief Justice Shepherd, and one of Judge
17 Steckler's ex-law clerks, Bill Potter, had come back from a
18 seminar. I'd have to credit Bill with the inspiration for the
19 creation of the Indianapolis Inns of Court. I think he
20 contacted Chief Justice Shepherd, who contacted me and Norm
21 Lefstein, who was the Dean of the law school here in
22 Indianapolis.

23 The four of us sat down and got the bylaws out and
24 had a few meetings with other Inns and made some selections of
25 individuals to be in the Inn. Those individuals then made

1 other selections. I think it's been a positive influence.
2 Although I have got to say, I'm a little disappointed
3 sometimes that some of the other members of the Inn that don't
4 seem to get as excited as I would have been at their age about
5 setting next to the Chief Justice of the Supreme Court or
6 interacting with the judges and lawyers who have had so much
7 more experience.

8 Even so, it's incumbent upon the organizers to make
9 the programs interesting enough to draw the people in. The
10 Bar associations and other groups contribute to civility as
11 well.

12 MAGISTRATE JUDGE BAKER: Do you remember when that
13 was created?

14 JUDGE McKINNEY: I don't, actually. I think it was
15 -- it's been several years now.

16 MAGISTRATE JUDGE BAKER: It's been more than
17 several. I don't have the date in front of me, and the name
18 of your Inn was?

19 JUDGE McKINNEY: It's the Indianapolis Inn of Court.

20 MAGISTRATE JUDGE BAKER: There's a new one -- well,
21 it's not new anymore.

22 JUDGE McKINNEY: Well, it's the Sycamore. One of
23 the things that's interesting about we judges, you know, we
24 have pretty good egos. There's a suggestion that a judge
25 could commit suicide by crawling up on top of his or her ego

1 and jumping off. The Inns of Court around the country are
2 named after people, and the vast majority are named after
3 judges -- I suspect even appellate court judges and then
4 various trial judges. But I feel strongly that an Inn of
5 Court ought to be named after a lawyer.

6 It's so much easier for an appellate court judge or
7 a district court judge or a trial judge, state trial judge to
8 get an award for civility. Civility is a lot harder for an
9 attorney to maintain while dealing with other counsel and
10 clients. The great cartoon of Hagar the Horrible says to his
11 pal Eddie, "You know, the most important thing is those three
12 little words." And Eddie says, "I love you?" And Hagar says,
13 "No, I got mine."

14 Well, that's the way the clients are today. They're
15 so much more difficult to work with than they used to be. So
16 lawyers that can maintain their sense of civility are really
17 the heroes. It isn't the judge, it's the lawyer. So I have a
18 suggestion for the name of the Inn of Court that I've
19 mentioned to Doug Hill on occasion. And I think our Inn ought
20 to be named after Doug. I haven't pursued that as much as I
21 should have.

22 MAGISTRATE JUDGE BAKER: Doug Hill, a well-known
23 lawyer at Hill Fulwider, who received the IBA professionalism
24 award two years ago. Speaking of heroes in the system, I've
25 heard you refer to jurors as your ambassadors.

1 JUDGE MCKINNEY: Yes.

2 MAGISTRATE JUDGE BAKER: Why do you do that and talk
3 about that?

4 JUDGE MCKINNEY: Well, we do such a limited job in
5 informing our citizens of the role of the court, that when
6 they come in for voir dire, they don't have much of an idea at
7 all of what the system's doing. There are many of them that
8 think that judges work from 10:00 to 2:00 and take vacation
9 three months every year.

10 So this first meeting is important for us. Every
11 judge I know does a splendid job with juries and voir dire and
12 treating the jurors with respect, so that when they are done,
13 they can go back into their communities and say, "Hey, this is
14 the way it really works, and this is the way the government of
15 the United States has chosen to share power in the dispute
16 resolution system. They share it with me. I'm on the street.
17 I go to work every day, and they come to me to resolve these
18 huge disputes; disputes over dirty air, disputes over
19 complicated patent cases. They come to me to decide guilt or
20 innocence in criminal matters."

21 My foreign judge friends scoff at us using jurors to
22 resolve these kinds of issues. They think jurors aren't
23 sophisticated enough. Well, if you give jurors this
24 responsibility, they discharge it, and they discharge it the
25 best they can so they become ambassadors of the system in the

1 community. They can tell their fellows in the community that,
2 you know, that's not so bad. Being a juror is not so bad.
3 It's hard, but it's not so bad. And, you know what? Those
4 lawyers and judges in there, they're working pretty hard.
5 They're thinking about important things. They're not in there
6 twiddling their thumbs, and they treated us with respect.

7 You know, there's an unfortunate new verb in the
8 lexicon, to "Ito" the jury. And that would be leave them
9 upstairs for two hours while you argue with the lawyers
10 downstairs.

11 MAGISTRATE JUDGE BAKER: In reference to the O.J.
12 Simpson trial?

13 JUDGE MCKINNEY: Right. We don't do that.

14 MAGISTRATE JUDGE BAKER: You have a pretty good
15 relationship with your jurors, and memory comes back of around
16 Christmastime when your jurors wanted to kind of treat you to
17 something. And why don't talk about that?

18 JUDGE MCKINNEY: Well, I remember trying a jury
19 close to Christmastime, and you don't ordinarily do that
20 because you tried not to invade the jurors' time like that.
21 Most people are pretty busy at that time, but I went out in
22 the morning, and I sat down and the jury sat there.

23 They were grinning at me, and I thought, what in the
24 world is going on with these people? And they just sat there
25 and grinned. We get started, and we come to the first break,

1 and my room deputy, Sally Delong, wonderful person. Sally
2 said to me, "The jury wants to know what's wrong with you."
3 And I said, "What's wrong with me? They're the ones sitting
4 there with those silly grins on their faces." And she said,
5 "Judge, don't you know that they're dressed alternately red
6 and green, red and green for Christmas?" And I said, "No,
7 Sally, I'm colorblind. I don't see red and green. They're
8 the same colors to me. I didn't notice that."

9 Well, the jury got a huge kick out of that. They
10 thought that was absolutely wonderful. It was a little
11 embarrassing to the Court, but the jury certainly enjoyed the
12 Christmas display.

13 MAGISTRATE JUDGE BAKER: How does an individual born
14 in South Bend and lives his life in Edinburgh establish a
15 reputation for himself as having some expertise in patent law,
16 how does that happen?

17 JUDGE MCKINNEY: Especially when I have a government
18 degree and I'm a humanities man. I don't -- in my leisure
19 time, I do not read scientific journals. It goes back to my
20 dad again. He said to me one time, he said, "Son, if you want
21 to be successful in life, you have to learn to like what other
22 people don't like." I may have mentioned that already.

23 MAGISTRATE JUDGE BAKER: You did.

24 JUDGE MCKINNEY: That led me to conclude, as I sat
25 around the courtroom and I listened to other folks say how

1 hard that stuff is and how it overwhelms the docket and how we
2 really don't want to do these. And I thought, I ought to
3 learn how to do that, and I ought to learn how to like it.

4 So for years, I did all the patent cases by myself
5 because I needed to know the law. I needed to know how this
6 all worked, and I have an abiding curiosity. I used to say
7 that's another thing a judge ought to have. We talk about
8 energy, integrity, et cetera, but curiosity is a good thing to
9 have.

10 I want to see how things work. I want to hear how
11 this business evolved in this way. How in the world can you
12 stick a pin in your finger and then have some LED letter show
13 up to tell you how much insulin you need? How in the world
14 does that work? Well, I learned how that worked, and it's
15 fascinating. It's amazing, at least to a government major.

16 As a kid, I had no regard for mathematics, and I
17 have great respect for mathematics. As a kid, I didn't think
18 it was necessary for me to know much science. I now know
19 science must be embraced. I have wondered what those people
20 at Purdue are doing all day long. Now I know what at least
21 some of them are doing all day. My respect for those efforts
22 rises every day.

23 MAGISTRATE JUDGE BAKER: As a result of your work in
24 the patent area, you've been able to travel throughout the
25 world and do some things?

1 JUDGE MCKINNEY: I have.

2 MAGISTRATE JUDGE BAKER: Can you describe that
3 briefly?

4 JUDGE MCKINNEY: It's absolutely amazing. I've been
5 so lucky. It started when a patent lawyer from Baltimore
6 asked David Hamilton if he'd like to be on a PLI panel on
7 patents, and he said, "No, but McKinney would." So he asked
8 me, and I said, "Sure."

9 So I got to know some individuals who have then
10 given me the opportunity to go to Argentina and discuss
11 patents with Argentine lawyers. I'm getting ready to go back
12 to Argentina and then Chile. Last year, I went to China to an
13 international patent conference as the Chinese are beginning
14 to vigorously apply themselves in the area of the protection
15 of intellectual property rights, and I was there presenting
16 how we do it in the United States.

17 As I'm sitting there on the panel in Shanghai, to my
18 right is a member of the high court of India. To his right is
19 a member of the high court of Japan. To my left is a member
20 of the high court of Great Britain. To his left is a member
21 of the Supreme Court of France. To her left is a trial judge
22 from the Netherlands, and to his left is a patent Court of
23 Appeals judge, two patent Court of Appeals judges from
24 Germany, and me. And I'm pinching myself thinking how did I
25 get this opportunity to tell this vast array of Chinese judges

1 how we consider infringement in the United States; and then,
2 the next day, what damages are available?

3 As anyone would reasonably suspect, several people
4 had to turn down the opportunity before they finally got to
5 me. But because I had known some people on this panel that
6 have served for ALI-ABA, so because I know them, I got invited
7 to China. There were to be three U.S. Judges in the
8 delegation, but one couldn't come. So, there were only the
9 two of us. As a result, I had more to do, and my opportunity
10 for learning increased.

11 I've been to Washington twice for the International
12 Conference of International Patent Judges. So I've gotten to
13 meet some of these same judges several times. It's just
14 really a tremendous honor to represent my country and the
15 third branch of the government of my country at one of these
16 conferences.

17 It's overwhelming, although I will say as I stood
18 next to Kent Jordan, who is on the Third Circuit now, when we
19 were in Shanghai right after our presentations, that a French
20 judge came to us and said, "I do not know why you Americans
21 are invited to this conference." And we said, "Well, why
22 would that be?" And she said, "Because your system is
23 stupid." (Spoken with a French accent)

24 As I say, one learns a lot at these meetings.

25 MAGISTRATE JUDGE BAKER: So did you get the French

1 accent?

2 JUDGE MCKINNEY: You get to hear what other
3 countries are doing. You get to see that maybe we should have
4 some different ways of doing things.

5 There's a bill in Congress now that is designed to
6 give district court judges the opportunity to decide yes or no
7 on patents cases. Some judges might opt out. I used to think
8 that was a terrible idea, but the only reason to think that's
9 a terrible idea is to say, "Well, I suffer through this, so
10 should everybody else." That's kind of foolish. That's not a
11 judicial thought. That's a Greek fraternity thought.

12 MAGISTRATE JUDGE BAKER: You also had other
13 opportunities to travel overseas to talk about the American
14 judicial system. You went to Moscow --

15 JUDGE MCKINNEY: I did. I went to Moscow.

16 MAGISTRATE JUDGE BAKER: -- as part of the Moscow
17 jury conference; correct?

18 JUDGE MCKINNEY: I did. It was a great opportunity.

19 MAGISTRATE JUDGE BAKER: Was that in 2003?

20 JUDGE MCKINNEY: I believe so. It was an
21 opportunity from Betty --

22 MAGISTRATE JUDGE BAKER: Bartow?

23 JUDGE MCKINNEY: -- Bartow.

24 MAGISTRATE JUDGE BAKER: The former Indiana Court of
25 Appeals judge?

1 JUDGE McKINNEY: Right. She took a job with a
2 company who was hired by the State Department to run
3 rule-of-law seminars in Russia about justice and about our
4 system and how to resolve disputes and things like that. I
5 got to go.

6 When Betty invited me, she said, "You've got an hour
7 presentation on how the judge and the juries interact, how you
8 bring juries in, what you expect them to do and that kind of
9 thing." So I was ready, and I was introduced by a member of
10 the Russian Supreme Court who told me that I had 15 minutes
11 after I had an hour prepared. And I interpreted that as a
12 message to me as to how much Russian authorities really wanted
13 to hear what I had to say.

14 After I'd spoken through translators with these
15 trial judges who were in attendance, I learned that they were
16 all interested because they had the front-line responsibility
17 for running the jury experiment.

18 MAGISTRATE JUDGE BAKER: They had not had jurors
19 prior to that?

20 JUDGE McKINNEY: Not since the change of government
21 in 1917, whenever that was, not since the Bolshevik
22 Revolution. So I took 45 minutes, and when I got done, the
23 representative of the Supreme Court of Russia said to all
24 these trial judges who had just listened to me -- we'd
25 answered questions back and forth -- they'd ask the questions

1 and I tried to answer them. He said to them all, "Just keep
2 in mind that your job is to do what I tell you, and if you
3 don't, you could find yourself as a defendant in your own
4 court charged with obstruction of justice."

5 I sat there thinking to myself, "Well, this is a
6 miserable atmosphere in which to work as a trial judge," but I
7 think that it made me assess again the importance of a
8 sovereign government deciding to share the power of the
9 dispute resolution system with its citizens.

10 MAGISTRATE JUDGE BAKER: Let me ask you one more
11 question about that trip to Moscow. I know you're kind of a
12 Scotch man.

13 JUDGE MCKINNEY: I am.

14 MAGISTRATE JUDGE BAKER: And in Moscow, they have a
15 reputation of being more toward the vodka end of the spectrum.

16 JUDGE MCKINNEY: Yes.

17 MAGISTRATE JUDGE BAKER: Did that create a conflict
18 for you?

19 JUDGE MCKINNEY: Well, as I talk about the traits of
20 a good judge, flexibility is a very important trait. That
21 should answer your question.

22 MAGISTRATE JUDGE BAKER: We are coming toward the
23 end of the time, but I've got a few more questions for you,
24 kind of in no particular order, just a few things I wanted to
25 make sure I asked you about.

1 One is as it relates to the Federal Court. You have
2 been actively involved in establishing a new courthouse in
3 Terre Haute, and you've been very actively involved with the
4 Bar in Terre Haute. In fact, you've sat every October since
5 you've been on the court hearing cases in Terre Haute and
6 taking a draw from there.

7 Can you talk a little bit about your experiences in
8 Terre Haute, the Terre Haute Bar, and your role in the federal
9 courthouse there?

10 JUDGE MCKINNEY: My mother's dad and mom lived in
11 Terre Haute, as I told you. And my mom and dad met in Terre
12 Haute, were married in Terre Haute. Dad and Mom's degrees
13 came from Indiana State, undergraduate degrees. I think Dad
14 sat on the Board of Trustees once. So I have this great
15 respect for Terre Haute. Having met with the Mayor, the Bar,
16 and having worked in Terre Haute for so many years, I was
17 aware of the importance of the Federal presence there.

18 MAGISTRATE JUDGE BAKER: There's the movie, I think
19 it's *The Jerk* with Steve Martin, where the guy's trying to
20 destroy the world, and the bomb goes off, but it doesn't do
21 too much damage. And the villain's last statement is, "Well,
22 at least I got Terre Haute, Indiana."

23 JUDGE MCKINNEY: It's interesting that Terre Haute
24 has two things for which it's famous: The Coke bottle was
25 designed there, and it is the birthplace of the famous labor

1 rights champion Eugene Debs.

2 MAGISTRATE JUDGE BAKER: A union man?

3 JUDGE MCKINNEY: Yes, yes. When Debs was alive, he
4 was regarded as a horrible radical, and today, so many of his
5 ideas are taken for granted; the importance of unions, et
6 cetera. The other is that the Coke bottle was designed in
7 Terre Haute.

8 Anyway, when they asked me when I first got here did
9 I want to go to Terre Haute or New Albany, I immediately said
10 Terre Haute. The old courthouse over there is very nice. The
11 post office owned it. For whatever reasons, it wasn't taken
12 care of very well. I won't go into all the details of what
13 happened to the old courthouse except to say that as the
14 postal authorities attempted to cut back on expenses because
15 income was going down with modern ways of communication that
16 don't include the post office, they made the decision to no
17 longer support that building.

18 The question became, what happens to that building
19 then? Well, GSA, the Government Services Administration,
20 didn't want it. And so that left the Senators, Senator Bayh,
21 in particular, with a really difficult dilemma. We have a
22 courthouse there and no Federal agency to support it. What in
23 the world do we do with it?

24 Our caseload in Terre Haute is not particularly
25 overwhelming. Even so, the Federal presence there is

1 important. If the building is abandoned, will the Federal
2 Courts be gone also? Can Indiana State University benefit
3 from the use of the building? These became intertwining
4 questions.

5 It's very important to the City of Terre Haute, not
6 just to the Bar, but to the entire community of Terre Haute
7 that they remain a Federal presence there. One of the
8 important reasons for that is the presence of our bankruptcy
9 court there. It provides a great service to that community.
10 The prison there is huge now. A new facility just opened up
11 there; and, of course, as you know, that's the only place
12 where Federal prisoners are executed.

13 MAGISTRATE JUDGE BAKER: In fact, Timothy McVeigh
14 was executed there.

15 JUDGE MCKINNEY: Right. It is, it's one of the
16 very, very serious duties of the Marshal of the Southern
17 District. So I learned how important this was to the
18 community. I'm not sure that I really knew, and then I
19 concluded that it's a good idea if we tried to see what we
20 could do to keep the Federal presence there. We looked and
21 looked for accommodations and just had no success at all.

22 Laura Briggs was central to this effort. She got us
23 involved with the Government Services Administration on a
24 lease program where one of the local contractors would erect a
25 courthouse, and then GSA would lease it back. We were trying

1 to fit within certain parameters, certain economic parameters,
2 and still have a building that looks like a Federal building,
3 that doesn't look like something that we wouldn't be proud of.

4 Laura managed to get that all done. She'd go to
5 meetings, and we'd do a lot of things. I have to say there
6 was some good planning, some straight-forward negotiation, but
7 there was some guile involved. Seemingly impossible obstacles
8 were overcome.

9 MAGISTRATE JUDGE BAKER: The ground has been broken,
10 and it's due to open later this year?

11 JUDGE MCKINNEY: It's being built. I am really
12 looking forward to going over there and trying the first case
13 in the building. That's one of my goals. I'd like to do
14 that.

15 MAGISTRATE JUDGE BAKER: That would be good.

16 JUDGE MCKINNEY: Their Bar's been so cooperative, a
17 very real force behind our success.

18 MAGISTRATE JUDGE BAKER: Over the 30 years, you've
19 had the occasion to send many people to prison, many of them
20 for a long time. Recently, over the last year or two, you've
21 been involved in a program called REACH, which I think is an
22 acronym for Reentry and Community Help, which is designed to
23 address the most high-risk offenders as they're released on
24 supervised release, and to make sure that they reacclimate
25 themselves into society and not go back to jail. Can you

1 speak a little bit about your role in that?

2 JUDGE McKINNEY: Well, first of all, I think it's a
3 part of the responsibility of the Third Branch to do whatever
4 it can during the course of the supervised-release period, the
5 rehabilitation period, to see that the rehabilitation period
6 is successful. We have probation staff, and that probation
7 staff does all sorts of things to ensure the success of this
8 readjustment period.

9 The Congress gave us mandatory sentences. It's
10 given us these guidelines through the Guideline Commission,
11 and we've given these sentences over the course of all these
12 years. And now these men, as they are coming out, these men
13 and women, they are facing extraordinary difficulties in these
14 economic times. There's one thing I think we can all agree
15 to, is that the rehabilitation period goes better if you have
16 a job.

17 So we need to be increasing our efforts to ensure
18 that these people have every chance available to do what we've
19 asked them to do, which is be a law-abiding citizen. So we've
20 started this REACH program through our probation staff, and I
21 was thrilled when the Chief Probation Officer came and asked
22 me if I was interested, and I said, "Absolutely, I'm
23 interested."

24 So we meet with these individuals once a month. We
25 give them awards for good behavior and try and steer their bad

1 behavior around. And, you know, it helps them, but it helps
2 me, too. I begin to see, and I've done this for years. And I
3 do my own supervised-release revocations anyway. So I know
4 what the problem is, but I'm still learning about how
5 difficult it is for some of these men to readjust.

6 You can imagine, you've been in prison for 20 years.
7 Your every hour has been scripted, and all of a sudden you're
8 back, and you're free. You're free to foul up. Suddenly,
9 there's a ready availability of mind-altering substances.
10 You've got relationships to begin with again.

11 You know, some of these men come back and their
12 children they have, eight, ten years old, they've never seen.
13 They're trying to reestablish family ties. They're trying to
14 have a decent relationship with a member of the opposite sex,
15 which they haven't had all these years. So the problems are
16 just -- they're just overwhelming.

17 And we really do need, as part of the Third Branch,
18 well, really all of us need to focus on making that transition
19 as easy as we can so that these people can then become not
20 only law-abiding citizens, do what they need to do, but tell
21 their friends of their experiences and how these people -- the
22 same people that they view as having robbed them of their
23 freedom, although they robbed themselves of their freedom --
24 help them get back to where they need to be, and are now
25 helping them find jobs, helping them with their relationships,

1 giving them emotional counseling, psychological counseling
2 when it's necessary. Because it is difficult. It is
3 difficult.

4 You know, we've had our pound of flesh from these
5 men, and they've paid their debt to society. We don't need to
6 be reminding them every day when they're done if they are
7 ready to be law-abiding citizens. I don't think there's any
8 statistical information that would rob an individual of his
9 right to have us respect them when they're done.

10 MAGISTRATE JUDGE BAKER: Now you, I believe, are a
11 religious man, although you never speak much about it. You've
12 been an elder in your church, taught Sunday school, I believe,
13 in your church. What role does that play in your life,
14 religion?

15 JUDGE MCKINNEY: Well, you know, I'll say this
16 first. There is no place in the New Testament or the Old
17 Testament in which religious people are urged to use their
18 government to get their way or to use their government to get
19 you to change your mind or to use the government to get you to
20 spend money on things you don't agree with. There's nothing
21 in the Old or the New Testament that says that.

22 In fact, in the Old Testament, prophets of the Old
23 Testament, particularly those around the Babylonia captivity,
24 Jeremiah, Isaiah, and others, advised the Hebrews to not get
25 involved in political squabbles, to not make alliances with

1 other countries, to not make an alliance with Egypt against
2 someone else. Now, they ignored them, according to the story,
3 and they end up with Babylonia captivity in the New Testament.
4 Paul says, in Romans, "Obey the civil authorities;" one of my
5 favorite quotes in the New Testament, by the way, as a civil
6 authority. But the point is, religion is about relationships.

7 Religion is about acknowledging that you, as an
8 individual, are not all there is. It's about interfering with
9 your notion that you want what you want when you want it.
10 That's what religion is about. That's what it is for me.
11 It's another one of those things in a person's life that
12 reminds them that they're not the center of the universe.

13 MAGISTRATE JUDGE BAKER: What is the church that you
14 belong to?

15 JUDGE MCKINNEY: I've been an elder for years now in
16 the Edinburgh Presbyterian Church. My mother was a
17 Presbyterian.

18 MAGISTRATE JUDGE BAKER: Speaking of -- were you
19 going to say something else?

20 JUDGE MCKINNEY: Yes, my grandfather was, too.

21 MAGISTRATE JUDGE BAKER: Speaking of relationships,
22 you've had a long-running relationship, I believe, with an
23 individual who you fondly refer to as "Joe, the Barber."

24 JUDGE MCKINNEY: Yes.

25 MAGISTRATE JUDGE BAKER: Why don't you talk about

1 Joe.

2 JUDGE McKINNEY: Oh, my, you know, one of the
3 important things to learn in life is that there are different
4 kinds of intelligences, and that the one you have may not be
5 the best one. The one you have may be the one that allows you
6 to make your contribution. It does not allow you to say
7 "Okay, I'm better than everybody else." It allows you to
8 understand everyone else's intelligence, appreciate everyone
9 else's intelligence, assist them in doing what they do best
10 with their intelligence.

11 "Joe, the Barber," is a wonderful man. He's a very
12 bright individual in terms of being able to understand a lot
13 of the human condition. Most of us think that bright is the
14 guy or the gal that can think of the most things at the same
15 time, keep the most facts in their mind at the same time and
16 regurgitate them when asked. But Joseph understands the human
17 condition awfully well, and I've always had great respect for
18 his acknowledgment that he isn't the center of the universe.

19 I've been in his shop when a retarded citizen will
20 walk into his shop whom I cannot even understand, and Joe will
21 say, "Hey, so and so, you're late," and the guy will pick up
22 the broom and sweep out the hair, put it in a little pile,
23 horribly inefficient, not a neat stack, hardly does the job.
24 And Joe says, "Well, thanks a lot. Here's your five bucks,"
25 and the guy will leave.

1 You know, that is the kind of thing that I value in
2 a human being. Kids come into Joe's, and from the time of
3 their first hair cut -- Joe is about my age -- and he's cut
4 grandpa's hair, the son's hair, and the grandson, maybe even
5 the great grandson's. He's just a part of the community and
6 performs that service where he recognizes everyone and
7 recognizes their own value.

8 You know, we're really in trouble when we get
9 restrictive in our thoughts about other people.

10 MAGISTRATE JUDGE BAKER: He is located in Franklin?

11 JUDGE MCKINNEY: He's in Franklin.

12 MAGISTRATE JUDGE BAKER: How long has he cut your
13 hair?

14 JUDGE MCKINNEY: Gosh, since I first started in
15 Franklin, since '78, anyway.

16 MAGISTRATE JUDGE BAKER: And he still does?

17 JUDGE MCKINNEY: Yes, yes, he still does. He still
18 does. My sons come to see him now and again. His partner,
19 Mike Coy, is probably the best crewcut guy around.

20 MAGISTRATE JUDGE BAKER: Another thing that has been
21 in your life quite a bit is baseball.

22 JUDGE MCKINNEY: Yes.

23 MAGISTRATE JUDGE BAKER: Why do you like baseball so
24 much, and where did that come from?

25 JUDGE MCKINNEY: Well, there are two lines there.

1 One is my dad was a big Cardinal's fan, and on a lazy
2 afternoon, you could sit in a lounge chair and listen to the
3 radio and hear a ballgame. There's just something peaceful
4 about that.

5 You hear people complain that baseball isn't fast
6 enough. I complain it's not slow enough. It's something that
7 slows down the clock. If you want a hot dog, every bite of
8 the hot dog, you don't have to hurry through it. You're not
9 on your way to someplace.

10 That's another reason why grandkids are so much fun,
11 because you're not in a hurry. You're not trying to get
12 something else accomplished. You're just there for that.
13 You're there to see and enjoy the kids -- see and enjoy the
14 game, watch the game.

15 That's one reason I said to my dad I wanted to be a
16 baseball fan, and he said, "Well, you have to have a team."
17 So we got out the map, looked at the map around South Bend so
18 we could get the closest team we could go see. There was
19 Detroit, there was Cleveland, Chicago.

20 Well, Chicago was closest. Well, there's two teams
21 in Chicago, the Cubs and the White Sox. The White Sox? I
22 like it. So I've been a White Sox fan every since I was about
23 four years old when I made that decision.

24 I learned when I got elected judge that one of the
25 things Dad always said, "In any relationship or any

1 conversation or any conference or any confrontation, you need
2 to know who's the 'handlee' and who's the 'handler.' And when
3 you get to be judge, it's viewed as an advantage if you can
4 handle the judge, if someone can handle the judge." And I
5 found that by focusing on baseball, that people, lawyers would
6 come into my office and talk baseball instead of how's your
7 wife? How's your family? How are you liking this judgeship?
8 And on and on about things about which I do not want to deal
9 with these individuals.

10 I'm happy to talk baseball. I'm not happy to talk
11 about my wife and family with everybody that comes in to my
12 office, and we talk about -- there has to be a separation
13 between the judge and the lawyer, a little separation. There
14 still has to be one.

15 MAGISTRATE JUDGE BAKER: So that has played a role?

16 JUDGE MCKINNEY: Yes, it has.

17 MAGISTRATE JUDGE BAKER: Consciously?

18 JUDGE MCKINNEY: Yes, it has consciously. Yes, I
19 admit it today.

20 MAGISTRATE JUDGE BAKER: Interesting.

21 JUDGE MCKINNEY: It's true.

22 MAGISTRATE JUDGE BAKER: In the few minutes we have
23 left, I notice you have an awful lot of keepsakes around your
24 office.

25 JUDGE MCKINNEY: I do.

1 MAGISTRATE JUDGE BAKER: And I wonder if you might
2 just kind of look around and talk about a couple of the ones
3 that jump out at you.

4 JUDGE MCKINNEY: The picture over there is a picture
5 of a law office in Nebraska, and it says "McKinney's Law
6 Office." And my neighbors across the road from us brought me
7 that as I graduated from college. They had come back -- they
8 went to Colorado every year -- and they came back and saw that
9 and took a picture of it because I told you, the last time I
10 wanted to see my name on the window, and I had told them that.

11 And so there's that picture, and I've hung that -- I
12 hung that in our trailer all through law school. I've hung
13 that in every office I've had. It was my motivation when I
14 was rolling along.

15 There's a coconut up there, and Rob Schafstall was
16 in Hawaii. He took a pen, and he wrote on that coconut "Judge
17 McKinney," and the address of the courthouse and got a stapler
18 out and stapled a bunch of stamps on it, threw it in the
19 mailbox, and it got all the way from Hawaii to Franklin,
20 Indiana.

21 That New York Police Department hat that's sitting
22 up there, Vinny gave us that. Vinny was a guard here at
23 courthouse, beloved by all of us, and he gave me that hat.

24 The bookends with the world on them, my mother gave
25 to me. The symbolism is overwhelming, if you think about it.

1 The next one is a box in which I bought a straw hat
2 when I was in Ecuador at one of my law clerk's weddings.

3 The next thing is a seal from the Johnson County
4 Circuit Court.

5 The next thing is a picture by a famous -- or a
6 painting by a -- actually, that's a print, a lithograph, I
7 think, by a famous guy whose name escapes me. Tom Jones, a
8 lawyer who appeared in our court in Franklin many, many times
9 gave me that.

10 There's a picture of a humble lawyer, and right
11 beside his head, he's standing up against the wall. And
12 there's a gavel buried in the wall where the judge has
13 obviously thrown his gavel at the guy. Tom gave me that after
14 a prolonged lawsuit.

15 MAGISTRATE JUDGE BAKER: That might have almost
16 happened to Tom a couple of times.

17 JUDGE McKINNEY: It might have, it might have.

18 The next one there is a marketing cup, a coffee cup
19 from McKinney, Texas, where my court reporter, Glen
20 Cunningham's daughter worked.

21 The next one that always reminds me -- it's a bronze
22 eagle, and it reminds me of Sug Admiae, my secretary for 20
23 years. Shug was a big bronze person, and she gave me that.

24 There's a Shell truck next to that, a toy truck that
25 is a reminder of a case that we had involving the Shell Oil

1 Company, which was a very significant civil case as Shell
2 decided to change its marketing strategy from private
3 ownership of their franchises to company stores with
4 convenience stores in them. There was a lot of controversy
5 involved in that. We had one of those cases. There were
6 several of those across the country.

7 MAGISTRATE JUDGE BAKER: Was that the case with
8 Linda Pence?

9 JUDGE MCKINNEY: Yes.

10 MAGISTRATE JUDGE BAKER: Did that result in some
11 type of a default judgment?

12 JUDGE MCKINNEY: Actually, no.

13 Then in the corner there is a doll, a wooden carved
14 doll from Russia that some Russian judges gave me when they
15 visited.

16 Next to that is a stack doll. I need to figure out
17 what you call those. It's from the Ukraine. Some Ukrainian
18 judges sent me that.

19 Next to that is a plaque that I got when I was in
20 LaPlata, Argentina, thanking me for coming to that particular
21 place and making my presentation. One of the things I like
22 about it is in Spanish. The lawyers are doctors so and so. I
23 was Chief Judge at the time, so I'm Chief Judge Dr. Larry J.,
24 so I've got three encomiums before my name. Have you got
25 that? Encomiums? Look that one up.

1 COURT REPORTER: I will.

2 JUDGE McKINNEY: Next to that is another present I
3 got from Vinny. Vinny, evidently as a retired New York police
4 officer, can go into their gift shop and do pretty much what
5 he wants. So this has got me as the Chief of the New York
6 Police Department with my name on it.

7 MAGISTRATE JUDGE BAKER: That's a coffee mug, for
8 the record.

9 JUDGE McKINNEY: And next to that is a cog from a
10 gear in a patent case I had.

11 The next one is -- I don't know if you remember Jim
12 Young. Jim was an Appellate Court judge in the State of
13 Indiana.

14 MAGISTRATE JUDGE BAKER: James B. Young?

15 JUDGE McKINNEY: James B. from Franklin, and he had
16 a good harsh streak in him. Every now and again he would say
17 "Let 'em eat dead flies." So that's my jar of dead flies.

18 Over here is the Bell of Freedom on the right-hand
19 side and the Scales of Justice on the left-hand side.

20 And in the middle, there is a brick that is from
21 Comiskey Park.

22
23 And on top of that is a pewter rendition of a
24 baseball player sliding into home, and that in itself deserves
25 a story, because when my law clerks leave me, I don't give

1 them anything. I require them to give me something, and that
2 pewter rendition was given to me by Mr. Baker.

3 MAGISTRATE JUDGE BAKER: Full of symbolism.

4 JUDGE MCKINNEY: Full of symbolism, yes, it is.
5 There they are on top of that Comiskey Park brick. That's my
6 essay on life, because in the balance, that is in the middle
7 between freedom, the Bell of Freedom, responsibility; the
8 Scales of Justice, is the pursuit of home.

9 This is an ostrich, which is very simply --

10 MAGISTRATE JUDGE BAKER: A picture of an ostrich.

11 JUDGE MCKINNEY: A picture of an ostrich. Not an
12 ostrich, a picture of an ostrich with its mouth wide open. I
13 will say only one thing about it, and I will not explain it.
14 That is the appellate court.

15 Next to that is a bobble-head doll of myself which
16 one of my law clerks gave me.

17 Next to that is a wooden rendition of a lawyer, an
18 old British lawyer which for Christmas one year -- I can't
19 remember who gave it to us -- somebody gave me that and gave
20 Carole one just like it that looks like a professor. And so
21 that really has more connection with Carole than you would
22 think.

23 The next one is a silver cup that I got from
24 Franklin College.

25 The next one is from Tom McKinney, my cousin, a

1 great basketball coach, great high school basketball coach.
2 He gave me an autographed ball from their State championship
3 victory. It's got all the kids' names on it and Tom's name.
4 One of the significant things about that is that Tom's son,
5 David, played on that team. And, of course, Tom's my cousin,
6 and I've known that kid when he was born. I remember when we
7 went on a trip once, and we stopped at a bakery, and David
8 announced that he wanted a chocolate "declare."

9 The next one is a grocery cart, a miniature grocery
10 cart. In the old days when my room deputy would bring --
11 every day one of the things she would do is bring me a grocery
12 cart full of files that you'd have to go through, motions for
13 this, motions for that. You either keep them and have to write
14 on them -- now, this was before electronics, before we had
15 everything on the screen, and that's what that means.

16 The other thing that looks like a rocket ship is
17 actually from one of our patent cases. That's the valve that
18 -- I think that one was directly responsible for making sure
19 that your elementary school kid when he takes a shower after
20 gym pushes one button and gets one temperature, so he's not
21 there fiddling getting it too hot.

22
23 The last one, of course, is the bobble-head dolls of
24 the White Sox announcers that a friend of mine from Chicago
25 gave me.

1 In the center, above the couch, there are two
2 things. One is an etching of a building from St. Petersburg
3 which Judge Shields brought me back from one of her trips to
4 Moscow. The thing above that is my friend, Dr. Yu-Long Ling,
5 who's a professor at Franklin College, and I have had a
6 long-standing relationship, and I don't know how many times
7 I've gone down to talk with his prelaw people and beat on the
8 President on his behalf, et cetera.

9 He brought that back from China once. That's an
10 original Chinese painting, and those Chinese characters are
11 just good luck things. And it has Carole's and my name on it.
12 So that's everything I've got around the top.

13 MAGISTRATE JUDGE BAKER: Anything else you want to
14 add?

15 JUDGE McKINNEY: I guess there's a lot of things I
16 could add, but we've got to bring this to an end sometime.

17 MAGISTRATE JUDGE BAKER: Well, I guess we do, but
18 thanks for the privilege of giving me a chance to talk to you.
19 I appreciate it.

20 JUDGE McKINNEY: Oh, it's my pleasure. I appreciate
21 it. I'll change it all when I look at it.

22 | - - -

23

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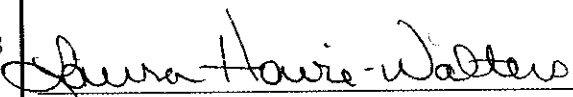
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CERTIFICATE OF COURT REPORTER

I, Laura Howie-Walters, hereby certify that the foregoing is a true and correct transcript from reported proceedings in the above-entitled matter.

August 28, 2009

Date


LAURA HOWIE-WALTERS, CSR
Official Court Reporter
Southern District of Indiana
Indianapolis Division