

At Sidebar

HON. CRAIG GARGOTTA

A Different Perspective

I RECENTLY BECAME a bankruptcy judge in Austin, Texas. And, as I write this issue's At Sidebar column, I have just finished my first week on the bench. After 17 years of practicing law as an assistant U.S. attorney, I have come full circle:

before I started working for the Department of Justice, I was a law clerk to Bankruptcy Judge Ronald B. King. In fact, Judge King is now our chief bankruptcy judge; he was the judge who administered the oath of office to me. I could not have scripted a more perfect way to start my new duties than to have my mentor administer the oath of office.

I do not think that I will ever forget the first time I put on my robe and actually sat before the bar. I found out in May 2007 that the Fifth Circuit had selected me to become a bankruptcy judge; my wife, children, and I were in a state of euphoria for weeks over my selection. The euphoria I felt was still there the first time I sat before the bar, but it was somewhat tempered by the realization that everyone whom I would encounter would now have a different perspective. I was no longer a colleague, but a judicial officer. The manner in which I conducted myself would not only affect lawyers, but citizens who were seeking relief by placing their problems in my hands. Although I welcome the privilege and responsibility of deciding cases, I found myself looking inward to my heart, my intellect, and my experience in ways that I had not previously considered. Moreover, after practicing bankruptcy law, affirmative litigation, and a variety of matters in federal district court, I have now learned how much I did not know when I was working as an attorney. And that the invocation of the phrase, "I want to think about this before ruling, so we are going to reset this matter for a couple of weeks," has become both a rallying cry and a crutch when I cannot actually make a decision on the spot. Fortunately for me, during that first week there were enough matters that were easy enough to resolve that I at least gave the appearance that I knew what I was doing.

In addition, I've had to get used to the monikers of "judge" and "your Honor." Moreover, I am impressed with the level of advocacy and professionalism in my court. I take pride in the fact that the lawyers appearing before me are both skillful advocates and consummate professionals in representing their clients. Even though I know that there will be occasions when that

is not the case, I recognize that it is my responsibility to ensure that members of the bar conduct themselves in a manner that a citizen in court (whether a party to the litigation or not) would find that the everyday rights that we take for granted are being properly safeguarded.

That said, as much as I have thought about what it would be like to be a judge, the simple answer is that it has exceeded any expectations that I had. The intellectual challenge in reaching decisions is coupled by the mental sparring with advocates, who are at times trying to educate me, curry favor with me, and respectfully discounting my questions or analyses as we work through matters. I suspect that, at some point, there may be a certain routine quality to the job and maybe even possibly some unpleasantness in dealing with recalcitrant lawyers and parties, but I cannot think of a better vocation.

The one aspect of the job I was not completely prepared for is the criticism of judges by the media. I expect the bar to discuss and criticize my rulings, and I know full well that the first reversal lurks around the next corner. That comes with making decisions. More troubling, however, is how the media and some lawmakers routinely condemn judges for doing their job—for making decisions. Like all walks of life, there are judges who are incompetent and judges who lack personal scruples and judgment. That said, having just gone through an extensive background check, I suspect that the level of incompetence or lack of personal responsibility is extremely limited. Rather, the vast majority of judges are dedicated public servants. For further proof, take a moment each month to read the judicial profiles in this magazine and you will be impressed with the level of ability, public service, and overall decency of our judges. The Federal Bar Association is correct in its position in support of the independence of our judges so that they can make informed decisions for all Americans. A judge's motivation in rendering decisions is not a function of convenient politics or personal preferences; rather, judges are concerned about preserving the rights afforded everyone that have been secured by the countless sacrifices of our military and the participants in our legal system who saw that doing what is right is not the same as doing what is popular. **TFL**

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