



Hon. Robert N. Davis

Chief Judge, U.S. Court of Appeals for Veterans Claims

by Jeremy R. Bedford



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Robert N. Davis was sworn in as chief judge of the U.S. Court of Appeals for Veterans Claims on Oct. 10, 2016. The U.S. Court of Appeals for Veterans Claims is the newest federal court, established in 1988 under Article I of the Constitution of the United States. The court has exclusive jurisdiction to provide independent judicial review of final benefits decisions of the Department of Veterans Affairs. Prior to 1988, America's veterans and their families had no recourse following an unfavorable decision of the agency. Chief Judge Davis has served on the court since Dec. 4, 2004, and will serve as chief judge for approximately three years.

Background

Chief Judge Davis' legal career is a perfect example of how the best laid plans do not always unfold as expected. The many and often unexpected turns of his career have now culminated in his ascension to chief judge of the court. Chief Judge Davis will be the first to tell you that when he started his legal career he did not envision becoming a law professor or a judge, let alone the chief judge of the sole federal appellate court dedicated exclusively to the appeals of our nation's veterans.

Born in Illinois and raised in Iowa, Chief Judge Davis always thought that after school he would end up returning to Iowa to practice law and maybe one day represent his home state and run for a congressional seat. These plans stemmed all the way back to the seventh grade when Chief Judge Davis read a book about Clarence Darrow. Darrow's portrayal as a fierce litigator and a champion of the underdog ignited a spark in the young student, and he decided then that he wanted to be an attorney. Watching Raymond Burr portray Perry Mason further fanned that fire. Chief Judge Davis was also shaped by growing up in the 1960s and '70s and witnessing the civil rights movement, Watergate, and the Vietnam War. As these were tumultuous times, he believed that becoming a lawyer would allow him to become an instrument of change and position himself to help society become a fairer place.

In 1975, Chief Judge Davis graduated from the



University of Hartford, West Hartford, Conn., and then the Georgetown University Law Center, Washington, D.C., in 1978. While in law school, he interned for Sen. John Culver of Iowa. Upon graduation from law school, Chief Judge Davis returned to Iowa and worked on Tom Miller's campaign for attorney general. Miller won that election and offered Chief Judge Davis a position in Iowa, but the young lawyer felt a calling to return to Washington, D.C. He wanted to experience Washington as an attorney as opposed to as a student. He accepted a job as an appellate attorney with the Commodity Futures Trading Commission, where he worked for five years. In this position, he developed a deep understanding of appellate rules and honed his legal writing. He also spent a year litigating for the Commission and got his first taste of being in a courtroom. Next, he spent four years with the U.S. Department of Education, in the business and administrative law division, where he practiced in a variety of legal areas. During this time period, Chief Judge Davis discovered a new passion when he began teaching undergraduate courses at American University on a voluntary basis. He taught criminal and civil judicial administration.

Academic

Chief Judge Davis is known as the academic judge on the court due to his background as a law professor. While he never envisioned becoming a professor when he began his legal career, Chief Judge Davis soon realized that teaching was his calling. After falling in love with teaching at American University, Chief Judge Davis decided that he wanted to teach on a full-time basis. He accepted his first law professor job at the University of Mississippi School of Law in the fall of 1987, teaching a variety of subjects, including constitutional law, administrative law, national and international security law, alternative dispute resolution, counterterrorism, and international and domestic sports law. The move to the University of Mississippi was an interesting and adventurous one since he did not know anyone there and Mississippi was quite a change from both Iowa and Washington, D.C. Chief Judge Davis, however, was excited about the challenge and accepted the job at Ole Miss because of the school's rich history, particularly its ignoble treatment of African-Americans in the 1960s and the challenges that James Meredith had in gaining admittance. He had only planned on staying in Mississippi for about four years, but again, life does not always go as planned. He ended up teaching there for 13 years and particularly enjoyed the friendships that he established with his colleagues and students. Since it is the flagship state university, many who run for and assume political office in Mississippi have strong ties to the University of Mississippi. Through the university, Chief Judge Davis met Mississippi's U.S. Sens. Thad Cochran and Trent Lott, who later sponsored him in the Senate in his hearings to become a judge at the court. He also worked alongside current Mississippi Sen. Roger Wicker as commissioners to the Uniform Law Commission, positions that were appointed by the governor.

In August 2001, Chief Judge Davis moved to Florida and joined the Stetson law faculty. His paternal side of the family is from Florida, and as a child he remembers long drives from Iowa to Ft. Pierce to visit his grandparents. He spent several weeks in 2000 on active duty at MacDill Air Force Base and decided he wanted to return to Florida. He visited with administrators at the Stetson Law School during that military tour and, after initially being told that there were no positions available at the time, he was called back within about two months and offered a faculty position. He taught there for three years before joining the Court of Appeals for Veterans Claims in 2004.

Over the course of his career in academia, Chief Judge Davis had the opportunity to teach in a variety of school settings. He has held teaching positions at the University of South Florida, Georgetown University Law Center, the University of Memphis, and Washington and Lee University. He has also taught in summer programs at the University of Hawaii; Downing College, England; and Concordia International University, Estonia; and has lectured at Makerere University School of Law in Uganda and at the University of Papua New Guinea.

Military

The year 1987 was an eventful one for Chief Judge Davis. Along with becoming a law professor, it was also then that he began serving in the military. Chief Judge Davis always had a desire to serve in the armed forces. While growing up, he noticed that most of the effective leaders that he knew had served their country at some point in their lives. When he graduated from high school in 1971, the Vietnam draft was winding down and he was assigned a high draft number, so he

had not been called to serve in that conflict. After high school, he was intent on getting his college degree and did not want to interrupt his education. The desire to serve, however, always stuck with him, so in the mid-1980s he decided that the time was right to join the military. His initial plan was to join the Marine Corps Forces Reserve, but to do so required a nine-month active duty commitment. Unfortunately, or perhaps fortunately, he had already accepted the teaching job with the University of Mississippi, so he was unable to meet that active duty commitment. The Navy Reserve had a more flexible training requirement and would enable him to begin teaching at the University of Mississippi on schedule. So Chief Judge Davis decided to "Go Navy." At the time he joined, all Judge Advocate General billets were filled in the D.C. area, so he opted for the military intelligence community. In another unexpected life twist, that decision ended up being a perfect fit for him. He was officially commissioned into the Naval Reserves in 1987, and greatly enjoyed military duty, welcoming the break from the regular practice of law and relishing the ongoing opportunities to learn and broaden his sights.

During his Navy career as an intelligence officer, Cmdr. Davis took a variety of active duty assignments around the world, including assignments to the Headquarters European Command in Stuttgart, Germany; Mediterranean deployment aboard the USS America; the Joint Analysis Center in Molesworth, United Kingdom; the Department of Defense Foreign Officer Exchange Program in Papua, New Guinea; joint fleet exercises aboard the USS Coronado; the National Security Agency; a presidential recall in 1999 to Bosnia; a recall to active duty after the terrorist attacks on Sept. 11, 2001, to the Joint Intelligence Directorate at MacDill Air Force Base, Tampa, Fla.; and the joint staff response cell in support of Operation Enduring Freedom and Operation Iraqi Freedom, Pentagon.

Love of Teaching

Chief Judge Davis' career has been driven by his diverse interests, his inquisitive mind, and his love for learning. He is a firm believer in the statement: "You don't fully learn something unless you teach it." He is convinced that this stems from the amount of preparation put into teaching a subject. Chief Judge Davis enjoyed teaching because it allowed him to be creative, a side of himself that he sometimes felt was minimized as a practicing attorney. In teaching, he could explore any avenue that he wished and he could teach subjects in which he was interested. It also afforded him research and writing opportunities. He believes that teaching and writing gave him a deeper and richer understanding of subject matters and opened up areas of interest that he couldn't explore while practicing in a narrower field of law.

His background as an attorney and military intelligence officer have positioned Chief Judge Davis to excel in the area of national security law. He first put this experience to work in his teaching when, after taking a seminar at the University of Virginia, he introduced the first National Security Law course at the University of Mississippi. Around 1994 he then founded the *Journal of National Security Law* in cooperation with the University of Virginia and Duke University. That journal now operates as the *Journal of National Security Law and Policy* at the Georgetown University Law Center. When he moved to Stetson University, he brought the course with him. He enjoyed shaping the course and weaving in overlap with other subjects he had taught, such as constitutional law.

Chief Judge Davis has written numerous articles on a variety of subjects, including a recent article published by the *Texas Tech Law*

Review titled “Veterans Fighting Wars at Home and Abroad.” He has been a frequent commentator on television, radio, and newspapers regarding national security, terrorism, constitutional law, and elections issues. While teaching in Mississippi, he was appointed by the governor as a Mississippi commissioner to the National Conference of Commissioners on Uniform State Laws.

Ending up on the Court

Chief Judge Davis believes that his academic background, experience as a government attorney, expertise in National Security Law, status as a veteran, and plenty of good fortune helped identify him as a candidate for appointment to the Court of Appeals for Veterans Claims. At the time he was initially considered for nomination, Chief Judge Davis, like most of the legal community, had limited familiarity with the court since it had been in existence for only 15 years. He had not practiced veterans or military law, but his administrative law background provided some level of comfort with the court’s jurisprudence. With support from Sens. Cochran and Lott, Chief Judge Davis was nominated and seated in 2004. His academic background, government practice experience, and administrative law knowledge provided for a smooth transition.

Chief Judge Davis is proud to serve on the court as it brings judicial review to a unique and important area of the law—a field at the intersection of law and medicine. Chief Judge Davis sees the court and independent judicial review as critical to the development of veterans law and veterans benefits. The court’s decisions shape and instruct the overall administrative review process and decision-making within Veterans Affairs (VA). In the 12 years he has been on the bench, Chief Judge Davis has seen the area of veterans law develop and grow. In 2004 there were only 15 West volumes on veterans law; just a handful of courses, clinics, and law review articles on the subject; and no casebooks. Today there is a significant body of caselaw, law school clinics working with veterans exist at a sizable number of schools, and veterans law courses are becoming the norm at many law schools. He is excited to be part of such an important and burgeoning area of law, noting that literature on veterans law has matured and recently there have been published casebooks and other books on veterans law, as well as numerous articles on a wide variety of issues affecting veterans, the VA, and the Court of Appeals for Veterans Claims.

Goals for the Court

Chief Judge Davis shared the three primary goals that he hopes to achieve in his three-year tenure as chief judge. The first, and most challenging, is to help answer the call of veterans to have a physical courthouse built for the court. The court has been housed in commercial office space since its inception almost 30 years ago, and building a courthouse is a goal and mission that was begun during

previous chief judge administrations. A courthouse is an important structure that symbolizes a nation’s respect for the rule of law. A courthouse *for veterans* would further demonstrate the special place that American service members occupy in this country. Chief Judge Davis hopes that at a minimum he can make progress toward achieving that goal and move it closer to completion for the next chief judge.

A second goal for Chief Judge Davis is to have better and regular communication with the constituency groups of the court. He is committed to listening to the input of the court’s stakeholders and improving the way the court accomplishes its function of providing prompt, full, and fair judicial review of appeals from America’s veterans. Chief Judge Davis noted the successes of past bar and bench and court judicial conferences, but sees the opportunities for follow-up and momentum as lacking. To that end, he recently established a court judicial advisory committee, with members representing a cross section of people interested and involved in veterans law and with the court. Boiled down to the simplest terms, the mission of the committee is to meet regularly and exchange ideas on issues, problems, procedures, and improvements to the court’s operations and the larger practice of veterans law. Chief Judge Davis hopes that the court will then consider the committee’s proposals and recommendations and ultimately institute positive change.

Another goal is to make the court the best possible work environment and to ensure that court staff are continually challenged and rewarded for their hard work. This initiative includes training, attending conferences with similarly situated staff from other courts, and working together to find ways to support efforts to work smarter and more efficiently. It also means that Chief Judge Davis strives to be accessible and available to all court staff, and he can be found collaborating on initiatives to further this goal, from researching and testing how best to steer the court’s technology initiatives to playing shortstop at the court’s annual softball game.

Looking to the future of the court, Chief Judge Davis notes that the VA faces a massive backlog of benefits claims, and a certain percentage of those cases will invariably end up at the court. The projection is currently for over 5,000 appeals filed annually—about double what the court was hearing when he joined the bench. Recently passed legislation allows the court to appoint nine active judges; however, the court currently has one vacancy. This increases the workload on each judge. Chief Judge Davis is not naive about the challenges that this will present, but he is working on strategies to make the court more efficient and is quick to compliment the dedication and hard work of his colleagues on the bench and the entire court staff. “We’ll figure it out,” he says, with his signature grin.

Chief Judge Davis feels incredibly honored and fortunate to serve as the chief judge of the court. He is determined to have a productive and eventful three-year tenure as chief judge. ☺

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