

# JUDICIAL PROFILE: TED STEWART

by Kenneth B. Black



The Honorable B. Ted Stewart

Not many weeks ago, Judge Brian Theodore “Ted” Stewart donned a black robe and stepped into the courtroom for the first time to the enthusiastic call, “All rise!” Judge Stewart recalls chuckling to – and at – himself as he entered his new surroundings. He describes feeling more like an actor playing a judge in a high school play than Utah’s newest federal judge. Judge Stewart brings to his new office an ample dose of perspective and a sense of humor.

## **From the Dairy Farm to Law School**

Judge Stewart is the fourth of ten children – six boys and four girls. He grew up on a dairy farm in Idaho and remembers rising early each morning with his siblings to milk cows. The family milked at 5:30 a.m. and 5:30 p.m., seven days a week, 365 days a year. His was not a job to occupy a curious youth’s time; it was, as Judge Stewart describes it, “work to feed the family.” His luxury each week? One morning to sleep in.

Judge Stewart received his B.S. degree in 1972 from Utah State University. From his early youth, Judge Stewart wanted to be a lawyer, like his grandfather, Charles Shumway. Upon graduating from college, Judge Stewart enrolled in law school and in 1975 received his juris doctorate degree from the University of Utah. In 1973, while attending the U., he married his wife of 27 years, Lora Beck. He and Lora are the parents of two daughters and four sons. They currently reside in Farmington.

## **A Diverse Career in the Law**

Judge Stewart brings to the bench a breadth of legal experience and public service. Following law school, Judge Stewart took a position with Senior & Senior (now Nielsen & Senior). Two prominent natural resources lawyers, Ray Senior and Ray Holbrook, acted as mentors to Judge Stewart and, under their tutelage, Judge Stewart developed an expertise in natural resources law. In 1981, he left for Washington, D.C. as the first Administrative Assistant to newly elected Representative Jim Hansen. Four years later, Judge Stewart returned to Utah as a member and later the chair of the Public Service Commission. Judge Stewart served on the Commission from 1985 to 1992, deciding scores of complex utility, energy, and natural resources issues.

In 1993, following an unsuccessful bid for the U.S. Senate and a brief stint with the Utah Department of Commerce, Judge Stewart was called upon to head the Utah Department of Natural Resources by newly elected Governor Michael Leavitt. He did so for five years. From 1998 until his recent nomination to the federal bench, Judge Stewart served as Governor Leavitt’s chief of staff.

Judge Stewart believes his broad range of experience will help him on the bench. He cites, for example, a recent hearing involving complicated telecommunications concepts. “Because of my telecommunications experience on the [Public Service] Commission, I understood much more readily the acronyms and technical terms the telecommunications industry uses.” Judge Stewart also expects to rely upon his considerable experience in making decisions. “One of the constants in the positions I’ve held is that I have been required to make decisions. As a judge, I’ll apply legal standards – statutes and case law precedent rather than policy considerations – but I anticipate that my experience making decisions will assist me as a judge.”

## **Respect for the Confirmation Process**

Much has been said and written about the political maneuvering surrounding Judge Stewart’s appointment and Senate confirmation. One might expect Judge Stewart to be a bit cynical about, even resentful of, the confirmation process. He is not. In fact, Judge Stewart maintains a “renewed respect” for “unique nature of a lifetime appointment” and believes that “the intense scrutiny directed at any nominee for permanent judicial office – myself included – is fully justified.”

## **Initial Impressions from the Bench**

In his first few months on the bench, Judge Stewart has become immersed in his work and is carrying a full case load. Late last year, Judge Stewart and 16 other newly appointed federal district judges from around the country attended a five-day orientation session affectionately referred to as “Baby Judges’ School.” This session for new judges consisted of lectures, videotapes, and practical advice from experienced judges. Judge Stewart relates that “everything is still new, but I am grateful for the generous assistance of my fellow judges. To a person, they have been extremely supportive and helpful.” Judge Stewart also praises and relies upon his personal staff members, whom he describes as “committed and very good at what they do.”

Judge Stewart is enjoying his work on the bench. He has particularly relished the interchange between the Court and counsel during motion hearings. He describes himself as a “fairly active questioner, and I expect I’ll become more active over time.” He reminds counsel that a judge has “limited capacity” to devote to any one case. As a result, he urges attorneys who appear before him to “cut to the quick” and “distinguish in short order what is truly important in a case from what is not.” Asked about initial “pet peeves” regarding lawyers, Judge Stewart admits, “I have just a few, but I’ve seen few enough lawyers in my short time on the bench that I don’t think I’ll be specific at this point. They’ll know who I’m talking about!” He urges attorneys to adhere to filing deadlines so that he and his clerks have time to absorb written arguments prior to hearings. Judge Stewart will refer civil discovery matters to magistrate judges.

Judge Stewart has talked with attorneys and other judges about the qualities that make a good judge. “The consistent theme I hear is that a good judge communicates with counsel and the parties. He lets them know what issues are important to him and what issues may be troubling him.” One of his goals, he says, is “to be a judge who communicates.” On occasion, he may also smile a bit to himself as he strides through the courtroom door to the familiar refrain, “All rise!” ■