



Hon. R. Guy Cole Jr.

Chief Judge, U.S. Court of Appeals for the Sixth Circuit

by Ben Cooper and Noah Litton



Ben Cooper is a trial and appellate lawyer with Cooper & Elliott, a plaintiff-side litigation boutique firm based in Columbus, Ohio. He clerked for Chief Judge Cole from 2013 to 2014.



Noah Litton also clerked for Chief Judge Cole from 2013 to 2014. After serving as a trial lawyer at Jones Day in Columbus, Litton returned to the federal courthouse on special assignment to clerk for the Hon. Algenon L. Marbley of the Southern District of Ohio.

“**P**art of me getting into the law is tied to Birmingham’s tortured history,” Chief Judge R. Guy Cole Jr. said over sandwiches from a Columbus coffee shop. “I rode segregated buses, sat in segregated sections of movie theaters, went to a segregated school. As a kid, you knew that’s the way it was. You had to live within that system. But you knew it could be better.”

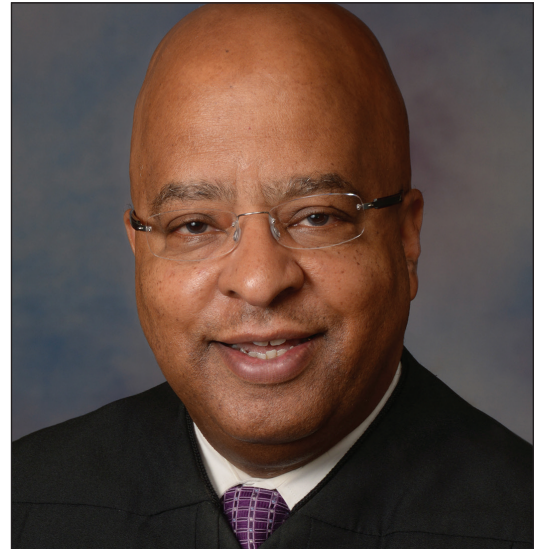
We sat in the judge’s chambers, reflecting on the journey that led him to serve as Chief Judge of the Sixth Circuit Court of Appeals. For his professional successes, Judge Cole is remarkably unassuming. He’d rather talk about your family or favorite TV show than himself, so it’s no surprise that he doesn’t dwell on his past. But the judge’s childhood in Birmingham, Ala., in the 1950s and ’60s offers a glimpse into his deep belief in public service and the importance of a just legal system, as well as insight into the leader he is today.

Dynamite Hill

In the 1940s, Center Street divided Birmingham. To the west lived only white people. That began to change with determined effort in the late 1940s. Judge Cole’s family joined other black professionals in building homes on or very close to the formerly all-white side, and it was on Center Street that the future judge encountered a who’s who of inspiring lawyers and community leaders.

There was Arthur Shores, Alabama’s “drum major for justice,” a prominent civil rights lawyer who successfully argued before the U.S. Supreme Court to prevent the University of Alabama from denying admission based solely on race. Oscar Adams Jr., the first black Alabama Supreme Court justice. Angela Davis, who would become a well-known civil rights activist and leader. U.W. Clemon, who would later serve as a federal district court judge for 30 years. And, of course, Martin Luther King Jr., who regularly stayed with the family of Judge Cole’s best friend to avoid detection by the Ku Klux Klan.

It was hard in this setting, surrounded by smart and passionate people, not to appreciate the law’s power and potential to achieve justice. Young Guy Cole was no exception.



Center Street, however, was a dangerous place for black residents and civil rights activists. Blessed by Birmingham’s Commissioner of Public Safety Bull Connor and the local police, the Ku Klux Klan burned, shot into, and bombed the homes of many black families. Houses in the area were built to limit damage from bullets or blasts, but even then the walls of Judge Cole’s house developed cracks caused by nearby explosions. The bombings happened so frequently that Center Street became known as Dynamite Hill.

“I appreciate the sacrifice made by many to obtain civil rights guaranteed by the Constitution,” the judge has written. He understands that sacrifice on a deeply personal level. The year after he and his family moved away from Birmingham, Cynthia Wesley and Carole Robertson, two of Judge Cole’s friends, were killed in the 16th Street Baptist Church bombing.

New Haven, Tufts, and Yale

In search of a safer life and better educational opportunities for their three children, Judge Cole’s parents moved the family to New Haven, Conn., when he was 11 years old. Judge Cole’s mother, Sarah, had been shocked by Birmingham’s systemic and entrenched segregation despite growing up in northwest Alabama.



Judge Cole appears with Ohio's senior Senator, John Glenn, and former bankruptcy court law clerk (and now-Judge), John Hoffman, shortly after his Senate confirmation hearing.

She was the driving force for the move.

The North, of course, was not without segregation, but it was subtler. New Haven had few integrated neighborhoods. Judge Cole's family was again one of the first black families in a predominantly white area. And though the schools were more integrated in New Haven than in Birmingham, many schools quietly but routinely placed black students from the South in grades below those of their peers. Sarah Cole, however, was determined to ensure that her children had the same opportunities as her neighbors' children.

"Education was a huge priority for my mother," Judge Cole said. Sarah Cole herself earned a master's degree and demanded the best of her kids, but she also made sure the public school system provided *its* best—fighting for Judge Cole's admission into an accelerated junior high school program, where he was the only black student. Judge Cole and his brothers took her lessons to heart, eventually earning advanced degrees in law, medicine, and dentistry—facts Mrs. Cole remains very proud of today.

By the time Judge Cole graduated high school, "everything was changing on college campuses," the judge explained. Martin Luther King Jr. and Bobby Kennedy had been assassinated. Protests over the Vietnam War were growing. The women's liberation movement was taking off. And predominantly white schools like Tufts University began opening their doors to diverse applicants in record numbers. Judge Cole enrolled there in 1968. In his first year on campus, Tufts admitted 49 black students—the largest number in school history at the time.

The classroom experience was transforming, too. Course curriculums expanded to include classes on political, social, environmental, and economic change. "A dominant theme of classroom discussion was how to be the best instrument for change," Judge Cole recalled.

It's a theme that has resonated throughout his professional life. Chief Judge Cole has served on the boards or leadership committees of the Buckeye Boys Ranch,

the Columbus Children's Hospital, the March of Dimes, the YMCA, the Columbus Area International Program, I KNOW I CAN (a college-bound program for Columbus City Schools), the Neighborhood House, the University Club, the Worthington Schools Education Foundation, and as the vice chair of The Arthur G. James Cancer Hospital Board at The Ohio State University. Particularly in the areas of health, education, and youth service, the judge continues to help the community progress—and all with his characteristic modesty.

The law has always marked one path for those concerned with change and motivated by a broad sense of purpose, and Chief Judge Cole felt drawn to it. He began at Yale Law School in 1972, treasuring his time there, where he had the chance to think deeply about diverse aspects of the legal system and put his studies to use working for the NAACP's research arm.

During his second summer, he took a job at a leading law firm in Columbus, Ohio. His friends at Yale, many of whom considered Chicago to be a backwater, didn't understand the decision. But Chief Judge Cole knew he could make a greater impact in Columbus than he could in places like New York or Philadelphia.

"Columbus was growing, and I thought I could grow with it," the judge remarked. "And George Corey," who recruited him to Vorys, Sater, Seymour and Pease LLP, "was a great cheerleader for Columbus." (Past law clerks now say the same of Judge Cole.) Despite not knowing a soul in the city and eating "the worst fish I've ever had" during his first visit, Judge Cole felt a bond with Columbus. In 1975, as his parents had done years before, Judge Cole moved to a new city rich with opportunity and the potential for change.

Columbus

Chief Judge Cole enjoyed his days as an associate at Vorys, focusing on corporate and SEC compliance work. Still, he felt a pull to public service. He got involved in community boards and philanthropic organizations. But soon, even that wasn't enough. After nearly four years in Columbus, Judge Cole uprooted himself once more to join the U.S. Department of Justice as a commercial litigator—to him, an ideal blend of trial work and public-service law.

Two years later, Vorys made a hard sell for Judge Cole to return to Columbus to join its partnership ranks. Vorys valued his unique combination of corporate work and litigation experience and reasoned that he would be a true asset to the leadership of the firm. "Leaving DOJ was the toughest professional decision of my career," the judge said. "I loved my time there. But ultimately it's a decision I never regretted." Relatively soon after returning, he became a partner—the firm's first black partner—and continued building his practice and making his mark on the Columbus community.

The Art of Judging (Part I)

"My brothers and I often say it was my dad's qualities

that had some of the biggest impact on us,” Chief Judge Cole observed. His father, Ransey Guy Cole Sr., grew up in Birmingham, graduated from medical school at age 21, and kept a successful family medicine practice until he passed away in 1995. “Quiet, focused, modest, likeable, dedicated to his patients. The way he interacted with people. We tried to emulate that.”

People who meet Chief Judge Cole find the same qualities in him. He’s good-natured and unpretentious; conversation is easy. He’s dedicated to quality work. He’s others-oriented. And after just a short time with him, you realize he has a strong moral compass and a true sense of obligation to the community. These traits, which he gleaned from his father, helped create meaningful and lasting professional opportunities for the judge.

One of those opportunities came in 1986, when, again feeling the pull of public service, Chief Judge Cole applied for, and was appointed to, a seat on the U.S. Bankruptcy Court for the Southern District of Ohio. The timing proved ideal. Across the country, bankruptcy judges were coming to terms with the newly enacted Bankruptcy Reform Act, issuing opinions of first impression on a regular basis. Judge Cole dove into the work with the help of John Hoffman, his first law clerk, who himself is now a bankruptcy judge. Judge Cole enjoyed putting flesh on the bones of the new Bankruptcy Code, and he made a name for himself in bankruptcy circles (and beyond) for authoring leading opinions on several complex areas of the law.

Still, to Judge Cole, the individual litigants mattered most. Judge Hoffman echoed the sentiment when recalling his time clerking for Judge Cole: “The challenge for any bankruptcy judge is handling that volume of work without ever losing sight of the fact that each case you’re dealing with involves a real person or business that may be profoundly impacted by your decision.” Judge Cole, he noted “never lost sight of this.” Indeed, he was “deeply concerned that everyone who came into his courtroom left with the conviction that he had carefully considered their arguments, that he had given them a full opportunity to be heard, and that he had treated them fairly.”

It was on the bankruptcy bench that Judge Cole first realized how much he loved the “art of judging.” He explained that while “a lot of my colleagues from law school or the firm might not enjoy giving up their role as advocates or ‘players’ in the game, for me, serving as a ‘referee’ proved far more enjoyable.” In keeping with his father’s influence, however, he never took the work, or himself, too seriously: “Of course, most lawyers who practice before you will tell you that you are the wisest, most able judge they have ever practiced before. You know, for the most part, that is a bunch of baloney.”

A Call to Service

After six years on the bankruptcy bench, and with another stint as a bankruptcy partner at Vorys underway, the judge felt he had his life in order. Life had other plans. On a spring day in 1995, Judge Cole received an unex-



Top: In addition to his duties on the court, Judge Cole gives back to the community by teaching classes at The Ohio State University Moritz College of Law. Here he is leading an advanced seminar on habeas corpus law and the death penalty. Bottom: Judge Cole keeps a tight-knit ‘clerk family,’ and routinely hosts reunions, like this one, for his former law clerks and their families.

pected call from Nathaniel Jones, a judge on the Sixth Circuit who was thinking of taking senior status. Judge Cole’s name “kept coming up” from Sen. John Glenn and others, and Judge Jones wanted to know if Judge Cole had any interest in replacing him on the court.

It’s worth noting that Judge Cole is the antithesis of a self-promoter, but his easygoing personality and reputation for solid legal work had a way of attracting opportunities like this.

After leaving and rejoining Vorys on two separate occasions, Judge Cole felt he “couldn’t leave” so soon after returning. By then, he noted, “they already had taken me back twice, and I was actively building my bankruptcy practice.” But life, and particularly the call to public service, has a funny way of refusing to take “no” for an answer. After several months of encouragement—including a “no notice” visit from Judge Jones and then-Chief Judge Gilbert Merritt—Judge Cole relented and agreed to be considered for the position.

President Clinton nominated him to the Sixth Circuit on June 29, 1995, and, in stark contrast to today’s highly politicized confirmation battles, he was confirmed by unanimous voice vote on Dec. 22, 1995. Judge Cole took the bench several weeks after his confirmation, driving

to Cincinnati through the first of several near blizzards to take the oath of office.

The Art of Judging (Part II)

You might think a judge's first days on the Court of Appeals would be glamorous. You'd be wrong. Chief Judge Cole recalls that when he first moved into his chambers, he and his first law clerk, John Haseley, stared blankly at each other over nothing more than "a desk and a half-dozen banker's boxes of appellate briefs." Neither of them knew quite what to do. Over time, however, and with the help of a second law clerk, Michelle Warner-Wallace, they learned. They even acquired some office furniture before too long. Chief Judge Cole explained that nothing compares to getting up to speed as an appellate judge. Learning the criminal docket—

which was all new to him—was particularly challenging and rewarding work.

Chief Judge Cole often describes his tenure on the Sixth Circuit as a set of three loose chapters. He spent the first chapter learning the job, putting strong hiring practices into place, and focusing almost exclusively on the cases and the hard work of opinion writing. The second chapter built on the first but included more time establishing relationships on the court (and beyond), including focusing on court administration and serving on court-wide and national legal

committees, serving as an adjunct lecturer of law at The Ohio State University Moritz College of Law, and speaking around the country at bankruptcy and appellate seminars and symposiums. The third chapter, in which he only recently embarked, is his service as chief judge.

"Serving as chief judge is a real honor," he noted, "but more importantly, it's a tremendous responsibility." More than anything, Chief Judge Cole wants the judges on the court to work together professionally and collegially. "It's important to me that everyone have respect for one another. I also want to ensure that the other 22 judges feel empowered to live up to their fullest potential."

The Sixth Circuit covers a diverse cross-section of America—two northern states (Michigan and Ohio) and two southern (Kentucky and Tennessee)—with a broad mix of people, geography, industry, and customs. Its bench reflects this diversity, as do the cases the court hears. Because of this diversity, defined in its truest and broadest sense, the court sometimes issues sharply worded and sharply divided opinions. But Chief Judge Cole cautions court-watchers not to read too much into any perceived divisions. "At the end of the day, we're all trying to do our best to get it right and to root out any differences we may have in the law."

To encourage that comity and cooperation, Judge Cole met individually with each of his colleagues shortly after assuming the role of chief, to sound out the temperature of the court and to see what, if anything, he could do to improve it as an institution. Those one-on-one meetings left him with a greater appreciation for the court and its chief stakeholders, and the meetings emphasized how much his new role requires continued patience, listening, and understanding. Judge Cole's centralized location in Columbus allows him to meet frequently with court staff in Cincinnati, as well as with the other judges—including district court, bankruptcy, and magistrate judges—who live in nearly every corner of the Sixth Circuit. "We have to understand each other not just as judges, but as people," he stressed, mentioning, among other areas of common ground, things as simple as "doting over our grandchildren" or sharing similar interests in sports teams.

"I am learning that the best thing for facilitating good relationships and respect among the judges on the court is simply getting together in person." It's a key point, and one our hyper-connected society can overlook. "If we've all had dinner together the night before, the *en banc* the next day just works better," the judge explained.

The judge credits becoming chief as his "crowning professional achievement"—not for its notoriety, but because it lets him serve an institution he cares about deeply. It was a milestone for the court, too: Judge Cole is the first black chief judge in the Sixth Circuit's nearly 150-year history. Hosting the court's biennial judicial conference last year in Detroit marked another highlight in his journey, and he looks forward to future events that will showcase other cities from around the circuit and bring people together. Because the third chapter in Judge Cole's judicial career is still in its early pages, we'll leave the discussion there for now. But looking ahead, the judge likened the position of chief to an old adage about owning a home or boat: "The happiest two days of your life," he noted wryly, "are when you buy it and sell it."

Family and Community

Underlying Judge Cole's professional successes is a firm anchor in family and community. He and his wife Kathie, a Columbus native with a successful career of her own, made that conscious choice early on. "She and I work as a partnership," the judge said. "We've had the same commitment to our kids from day one. And there's no way I could have had the successes I've had without her."

When Judge Cole first joined the Sixth Circuit, the court had a demanding caseload and sitting schedule. The judge balanced that workload against his family responsibilities—including returning to Columbus for nearly every school play, sporting event, and extracurricular activity for his three children, who were 10, 8, and 5 at the time.

"Back then," he recalled, "I did what only a young judge could do—I made a lot of late-night drives back

The judge credits becoming chief as his "crowning professional achievement"—not for its notoriety, but because it lets him serve an institution he cares about deeply. It was a milestone for the court, too: Judge Cole is the first black chief judge in the Sixth Circuit's nearly 150-year history.

and forth between Columbus and Cincinnati.” Family always came first, just as it had to his own parents. Still, Judge Cole admitted to sneaking the occasional peek at bench memos and briefs in between wrestling matches, hockey games, and tennis matches for his kids. At one point, Judge Cole and Kathie even considered moving to Cincinnati to make things easier on the family, but their love of Columbus proved too strong: “We had lived in Columbus since 1975, and by then, my wife and I felt we were part of the fabric of the community.”

Beyond his work on the court and in the community, Judge Cole takes great joy in seeing his former law clerks succeed in their own rights. Dozens of former clerks have gone on to serve as assistant U.S. attorneys, assistant public defenders, law professors, public interest lawyers, and partners and associates at prestigious law firms. He has even formed a growing “judging-tree” of former law clerks: Judge John Hoffman of the U.S. Bankruptcy Court for the Southern District of Ohio; Magistrate Judge Kim Jolson of the U.S. District Court for the Southern District of Ohio; and Judge Trevor Jefferson of the U.S. Patent and Trademark Office. The judge’s influence has taken root in these new branches, too. As Judge Hoffman observed, “The reason that my clerkship inspired me to pursue a career in public service is that Judge Cole provided me with a shining example of how a committed and hardworking judge can make a difference in the lives of the people who come before a federal court.”

“I’m incredibly proud of the excellence of my law clerks and their diversity in every respect,” Chief Judge Cole reflects. More than anything, though, the judge simply enjoys seeing his former clerks find love, happiness, and their own path in life. “I love my three Cole kids,” he remarked, “but I also love my 80-plus clerk-children, too.”

Looking Forward, Looking Back

At a recent celebration to mark his 20th anniversary on the bench, family, friends, former coworkers, and past law clerks feted Chief Judge Cole the only way they knew how: with a little food, a little drink, a little laughter, and a lot of fondness for the man from Dynamite Hill. That evening, we saw his portrait in full. There were traces of his 88-year-old mother, who was in attendance—the pride and satisfaction for what her son achieved. There were traces of his father, long-since departed—the quiet focus and modesty of an affable family doctor who dedicated everything to his patients. Most of all, there was the lasting image of Chief Judge Cole himself—a strong sense of public service, humility, and sacrifice. ☉

Judicial Profile Writers Wanted



The Federal Lawyer is looking to recruit current law clerks, former law clerks, and other attorneys who would be interested in writing a judicial profile of a federal judicial officer in your jurisdiction. A judicial profile is approximately 1,500–2,000 words and is usually accompanied by a formal portrait and, when possible, personal photographs of the judge. Judicial profiles do not follow a standard formula, but each profile usually addresses personal topics such as the judge’s reasons for becoming a lawyer, his/her commitment to justice, how he/she has mentored lawyers and law clerks, etc. If you are interested in writing a judicial profile, we would like to hear from you. Please send an e-mail to Sarah Perlman, managing editor, at sperlman@fedbar.org.