

## Judicial Profile

HON. JAMES A. GIBBONS

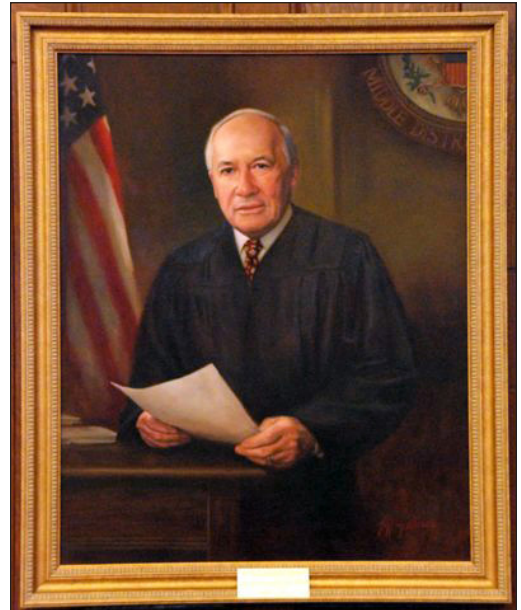
# Hon. Richard P. Conaboy U.S. District Judge, Middle District of Pennsylvania

IT WAS 1962, and President John F. Kennedy was searching to fill a vacancy in the U.S. District Court for the Middle District of Pennsylvania. The state's governor, David L. Lawrence, and U.S. Sen. Joe Clark submitted the name of a young lawyer from Lackawanna County, Richard P. "Dick" Conaboy, for the seat, but the word came

back from Washington that the person who was recommended was too young for the position. That decision was made by someone who was not exactly seasoned: Attorney General Robert F. Kennedy, who was younger than Conaboy by six months! It was, therefore, agreed that Conaboy's slightly older good friend and then Lackawanna County judge, William J. Nealon, would be nominated. Judge Nealon was confirmed and moved literally across the street to the federal courthouse. Gov. Lawrence appointed Conaboy to fill Nealon's vacancy on the state trial court. Hon. Richard P. Conaboy then embarked on his judicial career in December 1963 as a judge of the Court of Common Pleas of Lackawanna County, Pa. Sixteen years later, President Jimmy Carter would nominate him to the Middle District Court. A dream fulfilled? Not quite. Fifteen years later, President Bill Clinton nominated him to chair the fledgling U.S. Sentencing Commission.

In many ways, Judge Conaboy's tenure on the federal bench mirrors his time in the Pennsylvania courts. He served as the first chair of the Commonwealth of Pennsylvania's Commission on Sentencing in 1975. The sentencing process has always been one of the most challenging for the judge. "The most difficult days I have ever had as a judge are sentencing days," says Judge Conaboy. "I don't mean to diminish the importance of everything else we do. However, I honestly believe there is no greater impact a judge can have on a person than a decision affecting that person's liberty. We not only affect his liberty; we have a tremendous impact on a defendant's family. These are agonizing decisions. It is the hardest thing for me as a judge to look someone in the eye and to look into the eyes of his family and send that person to jail."

Judge Conaboy draws much of his strength from his wife of 58 years, Marion. Together they have raised



12 children and now have the daunting task of keeping track of 48 grandchildren. According to Judge Conaboy, "Having 12 children of your own prepares you like nothing else to be a judge. You learn patience. You learn respect for opposing points of view. You learn tolerance. Parenthood is great training for the bench."

Richard P. Conaboy was born in 1925 in the Minooka section of Scranton, Pa. He was raised in a family of five children by a father who worked for the telephone company and a stay-at-home mother. His mother, Rosetta, who made time to go to college and become one of the earliest women graduates of Lackawanna College in Scranton, died on her 100th birthday.

The judge graduated from the University of Scranton in 1945, where he would later return to receive an honorary degree and chair the university's Board of Trustees. Like his fellow members of "the Greatest Generation," he served his country militarily in the Army Air Corps and then received his law degree from the Columbus School of Law at Catholic University of America in 1950. He returned to Scranton and practiced law from 1951 to 1962 while starting his life with Marion. From 1959 to 1962, he also served as a hearing examiner for the Pennsylvania Liquor Control Board. Judge Conaboy did anything but settle down, however. He has always been a believer in service to

the community. He began by serving on the Scranton School Board from 1951 to 1960, during which time he served a stint as president of the board. Over the years, he has served on the boards of two local hospitals as well as local chapters of the United Way, the American Cancer Society, and the Boy Scouts of America. In addition, he has chaired the boards of the University of Scranton and Marywood University.

Judge Conaboy has always exhibited a keen interest in the criminal justice system. During his tenure in the Pennsylvania court system, he served as president of the Pennsylvania Joint Council on Criminal Justice and as chair of both the Pennsylvania Conference on Criminal Justice Standards and the Pennsylvania Commission on Sentencing Guidelines. It was this background that caught President Clinton's eye in 1994, when he tapped Judge Conaboy—who by then had assumed senior status—to chair the U.S. Sentencing Commission.

Even though his evolution as a judge saw him gravitate toward sentencing issues, Judge Conaboy has handled virtually every type of case that finds its way to the federal court. He has presided over multidistrict litigation, environmental cases involving more than 1,100 lawyers, and a number of high-profile criminal cases. The Middle District of Pennsylvania also has more than its fair share of pro se prisoner cases. Pat Brier, a Scranton lawyer and former law clerk, recalls the time when Judge Conaboy was assigned a civil rights case challenging the conditions of confinement in the neighboring Luzerne County jail. The conditions included horrendous overcrowding, with extra cots propped up on industrial-sized cans of food to make enough room for inmates to sleep on the floor. Judge Conaboy ordered the county to build new facilities and took Brier along one day to pay a surprise visit and “ask” the warden for a tour. Brier recalls the judge turning to the deputy warden at one point and saying “I’ll bet you’d like to put me in this cell and throw away the key.” “The warden didn’t dispute him,” says Brier, “but the judge just kept his calm demeanor and went about his business. The new facility was built.”

No matter what type of case Judge Conaboy is faced with, he welcomes them all. For him, it is all just part of the job. He sees no need to promote himself or boast about his cases and opinions. “I just take whatever comes from the clerk’s office,” he says. He also put his talents to work administratively: he served as president judge of the Court of Common Pleas in Lackawanna County from 1978 to 1979 and as chief judge of the Middle District Court from 1989 to 1992. During his tenure as chief judge, Judge Conaboy oversaw the design and construction of a new federal courthouse in Scranton and secured an additional district court judgeship and a full-time magistrate judgeship.

Faith and family provide a constant focus for Judge Conaboy. Even though he has a large family, his staff and law clerks have always been included in the Conaboy family’s gatherings and events. The judge has had a huge impact on his clerks and staff over the years,



Judge Conaboy celebrates with friends at a party recognizing his 45th anniversary of sitting on the bench.

in large part because working in chambers has never simply been “a job.” Kevin Calpin, a long-serving courtroom deputy, calls Judge Conaboy one of the most respected judges he knows—“not only for the way he handles cases,” says Calpin, “but for how he treats lawyers, litigants, employees, and all who deal with the court daily. His sense of fairness, respect, and courtesy are examples to us all of how to conduct ourselves every day.” One of Judge Conaboy’s first law clerks, President Judge Chester T. Harhut of the Court of Common Pleas in Lackawanna County, says that he learned the importance of patience during his clerkship. “He is the most patient man I’ve ever known. He never got ruffled. He could take anything and keep his composure. His face and ears might get red, but he never lost his cool. He also taught me to get involved in the community and with the bar association.” John O’Brien, a highly respected attorney in Scranton and the judge’s former law clerk, was struck by Judge Conaboy’s capacity to take the human view of what he does. “He has a very personal and human perspective on his work. It isn’t just a file; it’s someone’s life or job or family that each case entails. You could see that in his approach to the issues in each case, and nowhere was that more apparent as when someone came before him for sentencing. He has a remarkable temperament. During the two years I worked for him, I can honestly say I never heard from him a bad word about anybody.” R. Kevin Owens, who was Judge Conaboy’s clerk from 1980 to 1982, recalls how privileged he was to work for the judge. “I learned two important lessons that have profoundly influenced my legal career. The first is that the practice of law is not about winning and losing; it is about achieving a just result. The second is that, in the quest for a just result, a teaspoon of honey works better than a barrel of vinegar.”

In December 2008, Judge Conaboy will celebrate 45 years on the bench. Although he has not yet served one

year for each grandchild (he now has great-grandchildren to contend with), his years of service to his community and his country have left an indelible mark on those who have worked with this kind and gentle soul. Tom Brown, a former law clerk who followed the judge to Washington, D.C., to work for the U.S. Sentencing Commission, cites his former boss's sense of fairness. "Whether it was a complex civil matter with millions of dollars at stake or an incoherent jailhouse cry from a penniless inmate, every case received the same assiduous attention. This was a reflection of Judge Conaboy's conviction that to command the respect it deserves, the law must not only be applied fairly, it must be perceived as fair." One of the judge's current and longest serving clerks Joan Samuel has always admired his philosophy to take his work—but not himself—seriously. "He is a master raconteur with a self-deprecating sense of humor, just as easily recounting stories of failures as of successes, and more often pointing to his foibles rather than his strengths. While he revels in the path he has taken, it is with great humility that he shares the stories and lessons of the road." Joan rightly observes that her fellow clerks would share her sentiment that the "Conaboy years" are "among the best of our professional lives—for that and so much more he has our enduring gratitude and respect."

Several years ago, Judge Conaboy was asked to speak at an induction ceremony for a judge in Philadelphia. His remarks at that event, as recalled by Joan Samuel, provide insight into the man who has crafted a life that is true to his ideas and ideals: "As a judge, you never learn enough—you never stop trying—and you never feel you have fully learned your job." Later in those same remarks, quoting former Pennsylvania Supreme Court Justice Curtis Bok, Judge Conaboy observed: "A good judge must have an enormous concern with life,

animate and inanimate, and a sense of its tempestuous and untamed streaming. Without such fire in his belly... he will turn into a stuffed shirt the instant a robe is put around him. The first signs of judicial taxidermy are impatience with trivial matters and the statement that his time is being wasted, for the secret of a judge's work is that ninety-nine percent of it is trivial matters, and that none of them will shake the cosmos very much. But they are apt to shake the litigants gravely."

Judge Richard P. Conaboy breathes fairness, and he inspires those around him to do the same. Judicial taxidermy doesn't have a chance of setting in on this man; he was born immune to "robe-itis." Self-importance is anathema to his very being. After 45 years on the bench, the fire burns brightly. Judge Conaboy looks forward to his life of service each and every day because, for him, it is a learning experience. For those around him, it is a lifetime experience. **TFL**

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*Hon. James A. Gibbons is a magisterial district judge in Lackawanna County, Pa., and served as a law clerk to Judge Conaboy from 1982–1984. Judge Gibbons would like to acknowledge the assistance of Judge Conaboy's staff in the preparation of this profile: attorney Joan Samuel, Cathy Moran, and Charlie Cleveland.*