



Hon. Harris L. Hartz

U.S. Circuit Judge, U.S. Court of Appeals for the Tenth Circuit

by Anne Minard



Anne Minard graduated in May from the University of New Mexico School of Law, and was a student representative on the board of FBA's Albuquerque-based New Mexico Chapter; Judge Hartz is also an active member. In August, Minard will begin serving as a clerk for Chief Justice Charles W. Daniels of the New Mexico Supreme Court.

Judge Harris Hartz, of the 10th Circuit Court of Appeals, is by all accounts studious and serious. He works hard, and he expects hard work. But the people who know him best also treasure his fun side.

Hartz was born in Baltimore in 1947, the second son of Alvin and Muriel Hartz. His father, an internist, had recently served in World War II, and his mother was a homemaker. His older brother, Arthur, was then 2 years old. The family moved to New Mexico when Hartz was 6, in large part because of his asthma.

"I almost died at age 2," Hartz recalls. "My father's sister was in terrible health. He did not want that to happen to me. So he found a dry climate."

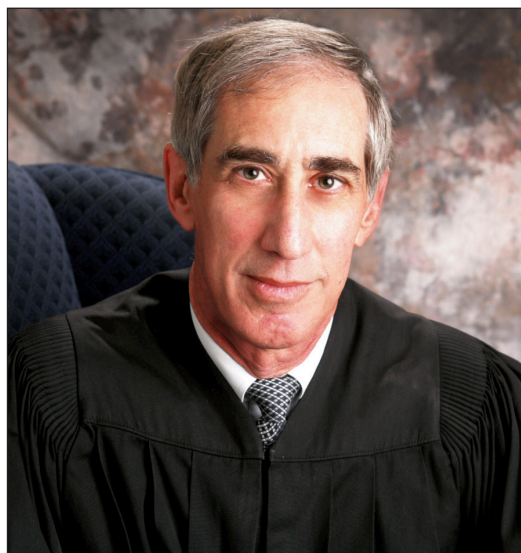
An acquaintance of Alvin Hartz was starting a medical clinic in Farmington, N.M., so that's where the family went. Harris Hartz recalls that his parents had an active social life; they often entertained other couples in their home and went out in the evenings. He says his father often had music on and liked to watch baseball games on TV.

But by all accounts, the elder Hartz was quiet and hard-working; if he wasn't working, he was reading. And Muriel Hartz says that even at a young age, her youngest son took after his father's studiousness.

"I would take Harris wherever I went," she says. "He was always perfect. He could work for hours. If I went to the beauty shop, he would do his thing and not bother anybody. He had a lot of concentration."

He was also determined. Mrs. Hartz remembers taking her older son, Arthur, to get a library card, and Harris decided he wanted one, too. But library staff hesitated to give a card to such a young child—he would have been about 3 ½—and they told him he could have one as soon as he could write his own name. So he sat down and wrote his name, surprising even his mother: "If he wanted to do something, he would just do it," she says.

Although Hartz' father spoke few words, he made his expectations clear: "You had to study," Hartz recalls. "We didn't even have a TV." That was partly because the signal was so poor in Farmington that it wasn't worth the investment. But even after the



family got a TV—Harris was in high school then—the children were limited to a half hour a night.

And so for several years, the youngest Hartz was a frequent visitor in the living room of his friend John Echohawk, now executive director of the Native American Rights Fund in Boulder, Colo. Even on afternoons when Echohawk and his brothers were outside playing ball, Hartz stayed behind to take in "The Lone Ranger," "The Roy Rogers Show," and "K-Circle-B Time," a 1950s New Mexico-based show featuring Dick Bills and sometimes his nephew, a young Glen Campbell. Hartz still remembers the theme song, and breaks easily into an impressive rendition:

Ridin' down the trail to Albuquerque; Saddle-bags all filled with beans and jerky; Headin' for K-Circle-B; The TV Ranch for you and me; K-Circle-B in Albuquerque.

Hartz and Echohawk have remained close since those early days in Farmington. They played Little League Baseball and engaged in friendly academic rivalry, which, as Echohawk remembers it, Hartz usually won.

“He was always the smartest kid in the class. Everybody knew that,” Echohawk says. “He kind of always had the answer and he always had the best grade. That’s just who we got to know as Harris Hartz.”

Hartz resides in Albuquerque now. But when he travels to Denver to sit on the 10th Circuit, he and Echohawk still get together to take in dinner or ball games.

As for Hartz’ TV-sneaking phase, it didn’t last long, and by junior high he was spending a lot less time in the living room. Instead, he was playing tennis, which once won him a state youth championship, and entertaining the other students with chemistry tricks at school assemblies. He collected stamps and baseball cards. He joined the Esperanto Club, where he learned to speak a made-up language. He was a natural reader, preferring biographies, and was especially struck by Albert Einstein.

“I felt different,” Hartz says. “So I liked his being nonconformist.”

His brother, Arthur, was interested in science, especially physics, and by about junior high, Harris was, too. He recalls that once the boys found a yellow rock as they were digging for water in the backyard, and it turned out to be uranium. His father gave Arthur an X-ray film, and Arthur put the rock and the film in a dark drawer to reveal the elementary particle tracks from the radiation. Shortly after the double helix was discovered, Harris remembers ordering a kit so he could build a model for himself. He graduated as valedictorian from Farmington High School, and when it came time to go to college, his choice was clear: he would study physics.

“I just thought it was the most important thing. I thought, ‘That’s how the world works, and that’s what I should do.’”

The physics career got off to a rocky start, however, when Hartz flunked the first exam.

“I remember thinking, ‘OK, I’ll be a lousy physicist. But I’m still going to be a physicist,’” Hartz recalls. He had a friend whose father was a physicist at Cal Tech, and got the help he needed. By his junior year, Hartz was among only nine students selected for Phi Beta Kappa. And by the spring of his senior year, he graduated summa cum laude in physics and was awarded a fellowship to study physics at Princeton. Trouble was, he already knew that he didn’t want to be a physicist. Hartz went on the fellowship anyway, and he remembers it as a marvelous year.

Still, it only took one moment of deep reflection to propel him off the science track. He had heard from an old friend, who called to say he was to be married. That evening, Hartz was scheduled to do an all-night experiment at the cyclotron, a particle accelerator used to study atomic nuclei. During the downtime, he settled in to write his friend a letter. When he got to the part about why he was pursuing the Ph.D., he found himself at a loss to explain.

“It’s like when you’re a judge, sometimes you have an opinion that doesn’t quite write,” Hartz says. “It just didn’t make sense. So I changed my mind.”



Harris Hartz and long-time friend Gary Fritz enjoy a hike at MacDonald Pass, outside of Helena, Mont.

That was April 4, 1968, the very night that Martin Luther King Jr. was shot. As Hartz left the laboratory, riots were already starting. “That just told me there were more important things than physics,” he says.

Hartz’ first job out of graduate school was on a political campaign for Jacob Javits, who served as a U.S. senator for New York between 1957 and 1981. Hartz then pulled a short stint as a newspaper reporter for *The Record*, a paper out of Bergen County in northeastern New Jersey.

Some of his early stories were about court cases to decide ownership of the Meadowlands area that the New York Giants now call home; at the time, the land was prime undeveloped real estate.

“The various communities each thought they owned the part of the Meadowlands adjacent to them,” Hartz explains. “Different state judges would rule on it.”

After one such ruling, his editor wanted to know if the decision was final, and Hartz had no idea. And so the seed was planted for Hartz’ next intellectual step: he was going to law school.

“I thought I would be a reporter when I got out [of law school],” he said. “I just felt I needed to know more law to do reporting.”

Soon enough, Hartz got caught up in the law. In his first year at Harvard, he joined a group called the Voluntary Defenders, which donated legal help to people who couldn’t afford it. At one point, he defended a young man who was only reachable through the local office of the Black Panthers. In another effort, he and his classmates offered their assistance at Walpole, a maximum-security prison now called the Massachusetts Correctional Institution. He was especially struck when Lefty Gilday, a famed jailhouse lawyer he met there, got his sentence commuted and then attended Boston’s Northeastern University—only to be convicted later for killing a police officer during a bank robbery.

“One thing I learned is that people could be nice, charming, and friendly, and then you learned that they had done these incredibly bad things,” Hartz says. “It’s a shame.”

Hartz didn’t clerk after law school, “which tells me I didn’t have any ambitions to be a judge,” he says. And it

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wasn't for lack of opportunity. He was case and developments editor for the *Harvard Law Review* and graduated magna cum laude. He worked as a research assistant for two professors, and one of them had an in for a two-year clerkship, split between the D.C. Circuit Court of Appeals and the Supreme Court. Hartz turned down the chance to be recommended for the job.

"It sounded like school, two more years of school," he says. "It was a different time, during Vietnam. I'm sure I'm in the only class at Harvard that had only one member go up to the Supreme Court."

Instead, after graduating, Hartz went to work for the U.S. Attorney's Office in Albuquerque. He was one of just seven attorneys there, four of them doing prosecutions. Within a few years, he was first chair in a 10-week, white-collar criminal trial; second chair was his best friend, Lyman Sandy, a former classmate from Harvard.

On the day of the verdict, Hartz estimates that he had put in about a year of seven-day weeks. He'd dropped from 175 to 160 pounds, and both of his eyes were infected. The defendant was charged with 74 counts, and Hartz remembers feeling sick when the first three came back not guilty. He thought he'd lost the case. The rest, however, were guilty.

Hartz was so spent after that trial that when a friend called and let him know about a teaching position at the University of Illinois, he gave it a try, teaching for one semester before deciding it wasn't for him. Soon after, he was back in Albuquerque, working as an attorney and then as the director for the Organized Crime Prevention Commission. From there he entered private practice for nine years and served as a judge on the New Mexico Court of Appeals through the 1990s. He re-entered private practice for just two years, as special counsel to the International Brotherhood of Teamsters, before his appointment to the federal bench.

Hartz made several lifelong friends during this time, especially during his years in private practice. One of these is Ranne Miller, senior partner at the Miller Stratvert firm in Albuquerque.

Miller says Hartz has always been conservative, and even jokes that "he's the kind of guy who's always got to wear a tie to the picnic." But Miller also recalls the time members of the firm staged a mock wedding to prepare one of their colleagues for his real upcoming marriage in Hawaii. "Harris

took the part of the groom," Miller says. "We had grass skirts and leis, and silly Hawaiian names. He just really came out of his shell, and was dancing. We had ukuleles, and we sang 'tiny bubbles.'"

Hartz recalls that Halloween was also a big deal at the firm.

"Nobody got any work done, and we would go all around the building, in costume. I took the bus to and from work at the time, so I carried my Superman costume in a bag, and then I changed into it when I got there."

Throughout his early career, Hartz parented two boys of his own. Jacob, now 34, is a pediatric cardiologist in Washington, D.C., and Andrew, now 31, is a graduate student in psychology.

"Both of my kids are doing exactly what they wanted to do," he said. "There were years when I worried about that."

Of all the jobs on his own resume, Hartz says he likes judging the best.

"It suits me," he says. "I think I can make my best contribution doing that. It's a very enjoyable job."

As for his own clerks, Hartz has done an about-face. At first, he hired clerks so they could help him. He was too critical, he thinks, and he worries that he might have demoralized a few.

Somewhere along the way, he realized, "I really like these kids. You can't imagine how happy it makes me to hear from a former clerk. Some of them will tell me something I said, which I don't even remember, that really helped them. Now I think of my relationships with my clerks as much teacher as boss."

Hartz says he has no idea about his reputation as a judge, adding that he's actually "very wary of reputations in the law." He has a favorite quote that comes to mind on the subject, coined by Evelyn Waugh in a biography of Dante Rossetti: a good reputation, Waugh said, "can be achieved by anyone who is dogmatic, plausible, and vain."

"The most important thing is doing your job as best you can," Hartz said. "You want your opinions to be clear, and you want to be fair. Getting the facts right is essential. But no one can anticipate every possible application of the opinion; life is much too varied and complex. So I've given up agonizing over whether I've gotten it exactly right. I just hope, when I've written something, that it advances the argument." ☺