



Hon. Richard W. Story

U.S. District Judge, Northern District of Georgia

by Edward A. Marshall



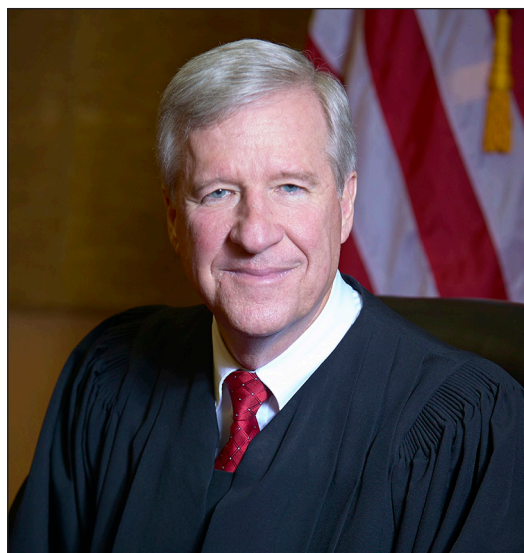
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It is tempting to begin a profile of Judge Richard W. Story by saying that, when I met him, he reminded me instantly of his favorite literary character, Atticus Finch (the *To Kill a Mockingbird* iteration, to be clear). That, however, would be inaccurate. Call it a failing of my education, but I had not read Harper Lee's classic when I began clerking for Judge Story in 2004. So, it was only later—when I finally managed to pick up *To Kill a Mockingbird* in my mid-30s—that the similarities between the fictional hero and the judge for whom I had the privilege of clerking became so striking.

Growing up in Harlem, Ga.—a small town 20 miles west of Augusta—Judge Story has the *bona fide* roots of a Southern gentleman. Pictures of fairways and greens of nearby Augusta National Golf Course decorate his chambers (and he can point out exactly where his chip shot landed when he had the opportunity to play the course in 2005), while his affinity for the University of Georgia Dawgs is likewise on full display in his office. And when it comes time for a chambers lunch—which invariably includes law clerks (new and old), interns, legal assistants, court reporters, and deputy clerks—the menu is of a distinctly southern variety. It will be fried. It will be greasy. And it will be delicious.

Judge Story went from Harlem High School to attend LaGrange College on the western side of the state, where he served as president of his fraternity, the Interfraternity Council, and treasurer of the Circle K service organization (and would later come to serve on the college's board of trustees). After graduating with a Bachelor of Arts degree in English, he made his way to the University of Georgia School of Law, where he earned his juris doctor in 1978.

Like so many of his generation, Judge Story admired the work of the civil rights movement and would be the first to reject any notion of southern infallibility. Indeed, he pursued a legal career—not because it was expected of him—but because he believed in the law's ability to make a positive change in the world and right the injustices that were so painfully on display in the 1960s and 1970s. But, like Atticus, Judge Story has



been able to maintain a clear-eyed criticality about the flaws of his home state while holding onto everything right and good about it. When he greets anyone from a lifelong friend to a new acquaintance, he does so with a kind smile, an enthusiastic handshake, and an affable familiarity you only come by growing up in a southern community of 2,000 residents.

Judge Story, like Atticus, also has an unquestionable devotion to his family. He has three children with his wife, Dr. Nancy Story, an English teacher who formerly taught at North Hall High School and now teaches at the University of North Georgia. And, as young adults, the three Story children have modeled themselves after parents they clearly (and rightfully) admire. Judge Story's oldest daughter, Laura Story Droms, took after her mother and now teaches at Mountain View High School in Lawrenceville, Ga. The Storys' two younger children, Elizabeth and Will, followed in their father's footsteps and have pursued careers in law.

But the "Story family" extends well beyond blood relations. Whenever the opportunity presents itself, generations of Judge Story's law clerks and staff join the chambers for reunions or lunches where, like family, they recount favorite stories, chambers pranks (of

which there have been many), and trade bits of wisdom imparted from the judge. Spouses and children (also known as Judge Story's "grand-clerks") are welcome to join and frequently do. And, like his actual children, at least two of Judge Story's former clerks have chosen to follow in his footsteps—with Judge J. Clay Fuller and Judge Brian Epps now serving as federal magistrate judges in the Northern and Southern Districts of Georgia, respectively.

For his part, Judge Story began his legal career at Hulsey, Oliver & Mahar in Gainesville, Ga., where he became a partner. And the judge enjoyed the practice of law. Indeed, he might have remained in private practice, but was asked by his mentor, Judge A.R. Kenyon, to fill a vacancy on the juvenile court in Hall County in 1985—the same year Judge Story was named Gainesville-Hall County Young Man of the Year. He still recounts his time on the juvenile court bench fondly, explaining that it was there that he came to appreciate how directly a judge could accomplish the mission that drove him to pursue a legal career in the first instance—effecting positive change in peoples' lives.

Judge Story so impressed those around him that, after only a year on the juvenile court, Georgia Gov. Joe Frank Harris appointed him as a superior court judge for the Northeastern Circuit. And Judge Story was reelected to that office, always without opposition, in three subsequent elections. (Shortly into his first term, he was also identified as one of Five Outstanding Georgians by the Georgia Jaycees.) He left the Hall County Superior Court in February 1998 only after being nominated by President Bill Clinton to fill an open seat on the U.S. District Court for the Northern District of Georgia. And, today, he splits his time between the Atlanta and Gainesville Divisions of the court, with a chambers in (and favorite lunch spots near) both courthouses.

Despite his ascension to the bench, Judge Story remains, at his core, a lawyer's lawyer. As a member of the Lumpkin Inn of Court in Atlanta (for which he served as president for 10 years) and the Orr Inn of Court in Gainesville, he enjoys the company of practicing attorneys and takes seriously his role as a mentor to younger members of the profession. He appreciates a well-briefed and well-argued case. And he loves the law, absorbs it, and applies it fairly and insightfully. While he famously attributes these decisions to the idiom that "even a blind hog finds an acorn once in a while," the number of acorns he's amassed over the years reveals that modesty for what it is—the admirable humility of a thoughtful and dedicated jurist.

For a man who took up the law because of the positive change it can have on the lives of litigants, moreover, Judge Story is renowned for applying the law faithfully and fairly—never just to achieve a particular outcome. Among many examples of that impartiality are two decisions Judge Story authored in 2006 interpreting the First Amendment. In the first, *Pelphrey v. Cobb County*,¹ Judge Story broke from a growing trend of district court

decisions and held that the Establishment Clause did not bar sectarian invitational prayer at legislative meetings—a decision that was later affirmed by the Eleventh Circuit and, in *Greece v. Galloway*,² determined to be correct by the U.S. Supreme Court. The following month, Judge Story granted preliminary injunctive relief barring a Georgia sales tax exemption for the Bible and other religious books, holding that the First Amendment did not permit the government to treat certain books more favorably than others based on their content.³ When a legal affairs journalist who had studied the opinions was later asked how the same judge could issue two back-to-back decisions coming down on "different sides" of the First Amendment divide, the journalist aptly responded: "He followed the law."

But make no mistake—while his fidelity to the law is unwavering, Judge Story *has* effected significant positive change throughout his tenure on the bench. Among the most striking examples was in an employment discrimination case brought against the Coca-Cola Company the same year Judge Story came to the Northern District.⁴ In a high-stakes litigation involving some of Atlanta's most respected law firms, Judge Story presided over a complicated settlement that involved a nine-figure payout and the establishment of a seven-member task force designed to overhaul Coke's human resource practices in the hiring and promotion of minorities and women. The task force was, by the terms of the settlement, to remain in place for four years. But Judge Story subsequently extended the term to five. The reason is what makes the story remarkable: Neville Isdell, the chairman and CEO of Coca-Cola, was so impressed with the strides the company had made under the task force that he *asked* the court to compel the company's participation in the task force for an additional year.

The truth is that, when litigants come into Judge Story's courtroom, they know that they're appearing before a judge who is interested in more than managing his docket and churning out opinions. Law clerks on his staff are often reminded that the court's work affects real people in profound ways; that the resolution of even the most simple motion may be the most important thing happening in someone's life; and that, win or lose, everyone appearing before the court should come away knowing that they were heard and treated with respect. As a former clerk, Michael Caplan, explains it, "Judge Story never forgets about the personal impact of each case in his courtroom. He cares deeply not only about getting it right, but about ensuring that each person who appears before him knows that he listened to their arguments and gave them a fair [hearing]." Criminal defendants who come before him for sentencings get the benefit of his

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attention and advice about how to find purpose as they serve out their prison terms. And the judge struggles mightily to deliver those messages of hope, even when the sentences he is handing down may last a lifetime. Indeed, long before he was invited by Pope Francis to attend the Judges' Summit Against Human Trafficking and Organized Crime at the Vatican, Judge Story was already abiding by the advice imparted to him by the pontiff in 2016: "There is no fitting punishment without hope. Punishment for its own sake, without room for hope, is a form of torture, not of punishment."

Judge Story's concerted effort to ensure that litigants before him know that their arguments have been carefully considered—irrespective of the outcome—have also produced lighter moments. Dating back to his days on the Hall County Superior Court, the judge was treated to a favorable letter to the editor of a local paper from a criminal defendant who had recently appeared in his courtroom. It would have been one thing if the defendant had been exonerated or given probation for a serious offense. But, in reality, Judge Story had handed down a decade-long prison sentence. The defendant could not have been ecstatic with the ultimate result, but knowing that he had been dealt with compassionately and fairly left him feeling positive about the experience (even from his prison cell). And as those lawyers who appear regularly before Judge Story can attest, a knowing nod from the bench during your argument should not be taken as a preliminary indication of imminent victory. The judge wants *all* advocates appearing before him to know that he has carefully listened to and understood their arguments—*especially* those who, like the criminal defendant above, might not be elated with the final outcome. As some within the U.S. Attorney's Office are fond of saying, a nod from Judge Story during your argument militates in favor of adjusting your expectations—downward. At a minimum, when you start getting nods from the bench in Judge Story's courtroom, it may be advisable to keep that celebratory champagne tightly corked.

For all his compassion, the judge holds attorneys appearing before him to high standards. He takes care to understand the law and the cases before him, and justifiably expects the lawyers in his courtroom to do the same. But, more than that, Judge Story expects counsel to be professional—to the court, to its staff, and to one another. And that expectation of utmost professionalism, even in an adversarial system, is modeled by Judge Story not just in his words, but in his actions. In more than one civil trial, after the evidence closes, he has invited counsel to join the chambers—and each other—at a dinner (in which sweet tea will invariably be served, along, at times, with copious amounts of pulled pork). Having witnessed one such dinner firsthand, that invitation is so much more than an opportunity to break bread with one's adversaries. It is instead an invitation to be everything that attorneys *should* be: fierce advocates for their clients' interests in the courtroom, but complete

professionals, and decent human beings, to one another throughout the process.

As the anecdotes recounted above indicate, there is no shortage of lawyers, litigants, and former clerks who would heap well-justified praise on Judge Story. But he is also held in uniquely high esteem by his colleagues on the bench. As Judge Steven C. Jones, puts it: "[Judge] Story is everything you could want in a judge: He has the perfect demeanor, he knows the law, and he cares about people." Judge Julie Carnes, now of the Eleventh Circuit, echoed a similar sentiment, describing Judge Story at his portrait hanging as "one of my favorite colleagues for any job I've ever held and one of the finest judges to wear the robe." And by all indications, the Supreme Court's Chief Justice John Roberts seemed to agree, appointing Judge Story in 2008 to serve on the Judicial Conference Committee on Federal-State Jurisdiction, and, three years later, to act as the committee's chair.

I can genuinely say that my years clerking for Judge Story were the most enriching I have spent in the legal profession. I know firsthand that many others, including my fellow clerks, feel the same. But rather than conclude with a quote from those members of the "Story family," or even the great Harper Lee, I prefer to end with a heartfelt message I recently received from the Eleventh Circuit's Judge Beverly B. Martin:

Judge Richard Story embodies the best of the judiciary. He is smart, hardworking, and respectful of everyone who comes before him. He doesn't come to any case thinking he already knows all the answers. That means he listens to the people involved in his cases, and as a result, his litigants get a fair shake every time. I have known Judge Story for most of his now [19] years on the federal bench, and I love being around him as much today as when I first met him. He has managed to maintain his awe for the institution of the courts over all these years, and the way he conducts himself always reminds me of the privilege it is to serve with him as a federal judge.

Atticus himself could not have said it any better. ☺

Endnotes

¹*Pelphrey v. Cobb Cnty.*, 448 F. Supp. 2d 1357 (N.D. Ga. 2006).

²*Greece v. Galloway*, 572 U.S. ____ (2014).

³*Budlong v. Graham*, 414 F. Supp. 2d 1222 (N.D. Ga. 2006), *modified by* 488 F. Supp. 2d 1245 (N.D. Ga. 2006).

⁴*Ingram et al. v. The Coca-Cola Co.*, Civil Action No. 1:98-cv-03679 (N.D. Ga. filed 1998).