

Judicial Profile

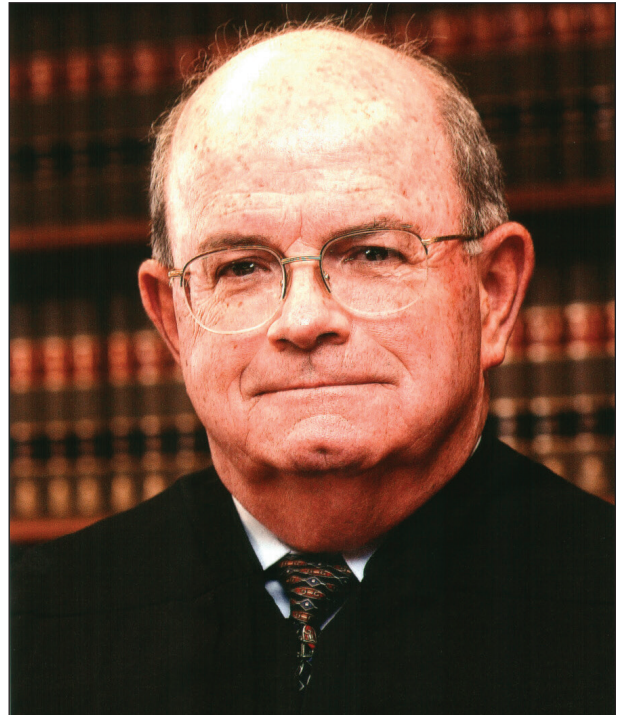
JEFFREY C. RAGER

Hon. Joseph M. Hood Senior Judge, Eastern District of Kentucky

HON. JOSEPH M. HOOD recently stepped down as chief judge of the Eastern District of Kentucky and took senior status. To commemorate this event, the Kentucky Chapter of the Federal Bar Association decided to publish a judicial profile describing Judge Hood's service both on and off the bench. As vice-president of the chapter, I volunteered to write this profile, although this is not my only reason for assuming this pleasant task. Let me explain what led to my decision to do so.

Last year, I attended a seminar on federal law presented by the local U.S. attorney's office, and Judge Hood was one of the speakers. For some reason, the judge started to discuss the actions of an overly zealous attorney from the Kentucky Public Defender's Office, who was representing a defendant who had been sentenced to death in state court. (It is my understanding that Judge Hood was hearing the case because of a constitutional issue involving the death penalty in Kentucky.) When arguing her case, the public defender failed to mention that the Kentucky Supreme Court had already ruled on a certain issue that was unfavorable to her client. It was the attorney's position that she did not have a duty to disclose case law that was adverse to her client's position. (At this time, Kentucky did not have an affirmative rule of professional conduct that required lawyers to disclose case law that was contrary to their clients' position to the court.) Quite naturally, the attorney's failure to disclose upset Judge Hood, for whom such an omission is tantamount to lack of candor to the court.

During Judge Hood's speech at the seminar, he pointed to the seal above the bench and read aloud the seal's words: "dedicated to the pursuit of justice" and "for justice for all." He then stated that our system is dedicated to justice, and when he said the word "justice," he brought his hand down on the table. At that same time, a door slammed hard, seemingly putting an exclamation mark on the point Judge Hood was making: that we serve the aims of justice and our



actions have a direct impact on the meaning of this ideal. I happen to strongly agree with this view; therefore, when the opportunity arose to write a profile, I jumped at the chance.

Judge Hood is a Kentucky native, born in Ashland on Oct. 14, 1942. He received a B.S. in business administration from the University of Kentucky, and he later pursued graduate studies in economics at the same university. During his time in college, he was enrolled in ROTC and the Vietnam War was in full swing. The Army decided that it needed officers in the field more than it needed economists; therefore, he was called to duty.

Judge Hood went into the Army as a second lieutenant and served as an infantry company commander in Vietnam from 1968 to 1969. He completed airborne, ranger, and special forces training, and he was honorably discharged after achieving the rank of captain. His military service earned him many decorations, including a Bronze Star with a V Device and four Oak Leaf Clusters (he was awarded the Bronze Star on five different occasions), a Purple Heart, and the Vietnamese Cross of Gallantry. His experience in the military

is what led him away from business and into law because of the many opportunities he had to dispense field justice in Vietnam. When he returned to civilian life, he went to the University of Kentucky College of Law and earned his J.D. degree.

Judge Hood has been married for the past 37 years to his wife, Carol Ann, whom he recalls meeting when he was an altar boy at his church. Mrs. Hood is a substitute teacher in Lexington, Ky., and they have two adult children. Their son, Marty, is a graduate of the University of Denver and works in the national accounting office of a major retailer; their daughter, Betsy, is a graduate of the University of Kentucky and works as senior pension benefits analyzer in Ashland.

When not on the bench, the judge used to enjoy running every day; however, an injury to his hip resulting from jumping out of an airplane now forces him to walk instead. As is a prerequisite in this area of the country, he bleeds blue and is a season ticket holder for both University of Kentucky basketball and football games. In fact, while he was an undergraduate, he was the basketball team's manager.

The judge devotes a large portion of his time off the bench to church and civic service. He attends the Cathedral of Christ the King in Lexington, where he is a lector, sacristan, and eucharistic minister. He serves on the board of directors of both the Christian Appalachian Project and the St. Joseph Hospital Foundation. In the past, he was a member of the board of visitors at the Salmon P. Chase College of Law, a member of the board of trustees of Alice Lloyd College, a director of the Ashland area YMCA, and president of the United Cerebral Palsy of Eastern Kentucky.

After graduating from law school, he became a law clerk for U.S. District Judge H. David Hermansdorfer, and Judge Hood's deep respect for Judge Hermansdorfer is obvious; Judge Hood attributes learning a great deal about the workings of justice to his time as a law clerk for Judge Hermansdorfer. In 1976, Judge Hood was appointed U.S. magistrate judge for the Eastern District of Kentucky, spending 14 years in that position, which provided him the unique opportunity of presiding over 200 jury trials as a magistrate judge as a result of vacancies on the District Court of the Eastern District of Kentucky. In 1990, he was appointed to the district court, where he has served ever since.

Judge Hood is a member of the Sixth Circuit Judicial Council and also serves on the Sixth Circuit Investigating and Library Committees. He is past president of the Sixth Circuit District Judges Association and formerly served on the Financial Disclosure Committee of the Judicial Conference of the United States. In 1999, he received the Kentucky Bar Association's Outstanding Judge Award.

During my interview with Judge Hood for this profile, he described the experiences—both positive and negative—that helped develop his understanding of justice. According to Judge Hood, in addition

to clerking for Judge Hermansdorfer, his experiences with other judges provided exposure to other dedicated individuals from whom he could not help but learn valuable lessons. Judge Hood cited a few examples of local attorneys, such as Bill Johnson and Frank Haddad, whose demeanor in court exemplifies the professionalism of attorneys. The judge stated that they never behaved in a way that was mean or disrespectful to others involved in a case, and they were prepared, knew the law, and never misled the court.

In addition to the public defender's failure to disclose, which was mentioned earlier, the judge remembers two other negative experiences. During a trial, an attorney with whom the judge had a great relationship for years became visibly upset with a ruling from the bench and threw his pencil down so hard that it flew up in the air. Despite their relationship, this lack of professionalism did not sit well with Judge Hood. The judge held his temper until the jury had been excused, but most readers can probably guess what came next.

The other example of bad behavior that Judge Hood recalls came from an assistant U.S. attorney who became upset with one of the judge's rulings. The attorney walked outside the bar of the court and made her displeasure more than evident. Judge Hood informed her that if she did not want to continue trying the case in front of him he could call the U.S. attorney to the courtroom to finish the trial. The assistant U.S. attorney resumed her composure and finished the trial. Such incidents can explain why Judge Hood keeps a rather large hickory walking stick that has "lawyer attitude adjuster" written on it in his chambers. Although the judge keeps the walking stick close to him, he has yet to use it, he says with a smile.

Judge Hood discussed changes to the federal judicial system that he has seen since he began serving on the bench. The change that the judge believes has had the most positive effect to the system is the change from indeterminate sentencing to the institution of the Federal Sentencing Guidelines. While the federal courts were acting under an indeterminate sentencing system, there were no rules to suggest what sentence should be imposed. The judge remembers touring a federal detention center and talking to two inmates both of whom had been convicted of bank robbery. One inmate had received a five-year sentence, yet the other was sentenced to 25 years in prison. According to the judge, the Federal Sentencing Guidelines have helped to alleviate the disparity in sentencing and also eliminated many considerations that Judge Hood believes should not be factors in sentencing—the defendant's economic status or family situation, for example. Judge Hood maintains that it was neither the amount of money the defendant had or the family situation that committed the crime. Another improvement mentioned by Judge Hood is the advent of the CM/ECF filing system; the improvements electronic filing have brought are fairly self-evident: it saves time,

trees, and money.

When asked to comment on the phrases “independent judiciary” and “judicial activism,” Judge Hood was straightforward and to the point. He believes that an independent judiciary is fundamental to our constitutional form of government; without an independent judiciary, the rights and privileges enjoyed by the people are devalued. He also believes that judicial activism demeans these same rights and privileges. According to Judge Hood, doing the right thing is not always doing what you think is right; our government is one in which the rule of the majority is established to protect the rights of the minority, and doing the right thing is not always popular.

Judge Hood chose to discuss one issue of importance facing the federal judiciary: judicial pay. Chief Justice Roberts has noted that the state of federal judicial pay is a constitutional crisis. Although Judge Hood did not reiterate those words in our discussion, he did offer some disturbing statistics. If the salary of a federal judge in 1969 is compared to that of a judge serving today, the numbers would show a 60 percent decrease in buying power.

The disparity in the judiciary’s compensation vis-à-vis salaries in the private sector has led many qualified judges either to leave the bench and return to private or corporate practice or not to seek the appointment in the first place. In order to accept a judicial position, many people would have to take a 50 percent pay cut, which would naturally reduce their standard of living. It is easy to imagine the problems faced by a person deciding whether or not to become a judge: How can these individuals pay the tuition for the education of their children? How can they make their mortgage payments when they have taken 50 percent cut in pay? Will their spouses have to find a higher paying job in order to make ends meet?

Another disturbing trend, according to Judge Hood, is that, in the past, three of four judges came from the private sector; today, however, most judges join the bench after working in the public sector. It is much

easier for an individual who is accustomed to a government salary to make the transition to the bench than it is for an individual who is used to earning much more. In addition, Judge Hood believes that it is important to have judges with diverse backgrounds because of the varied education, history, and ideas that this diversity brings to the bench. A slight change to an old saying says it best: “Don’t pull all your eggs from the same basket.”

The practical result of the salary gap is that the crop of qualified and intelligent individuals wanting to become judges has thinned. Many judicial luminaries have left the bench for the simple reason that they cannot afford the honor of being a judge. Judge Hood believes that it is our hands, minds, and hearts that keep justice alive and well in the present and will continue to do so in the future. If the quality of judicial candidates is diminished because of economic reasons, the quality of justice declines as well.

I came away from this interview with Judge Hood with an impression of a man who has spent his life in service to his country and his community. Judge Hood is a true patriot, and he has brought honor to the bench during his term. Even though he has taken senior status, he plans to remain on the bench for as long as he is healthy enough to do so. The Eastern District of Kentucky is lucky to have Judge Hood on the bench and is happy that he will be with us for many more years to come. **TFL**

Jeffrey Rager is a partner at Virginia L. Lawson & Associates P.S.C. in Lexington, Ky.