

## Judicial Profile

DAVID J. D'AGATA

### Hon. Gary R. Jones U.S. Magistrate Judge, Middle District of Florida

WHEN I TAUGHT English literature to junior high school students, I recall that one way of getting students more involved in a novel was to have them trace the development of literary characters and describe them. At times, particularly when a character took on complicated and multifaceted dimensions, this task would prove quite difficult. In those cases, I would jump-start the analysis by challenging students to list traits and features that might describe the polar opposite of the literary character at hand.

Things have now come full circle, as I am put to the task of describing a truly multifaceted and complex gentleman known to me as “The Judge.” Let me begin by detailing the things he is not. He is neither dour nor cynical, nor does he take for granted the blessings of his family and friends. He does not take lightly the many roles that he plays as a father, husband, judge, mentor, and friend. He does not recede from challenges or conflicts, and he does not act without deliberation. He is not a spectator in life, and he does not take himself quite as seriously as some might expect. Perhaps it is those things that he is not that make him such a thorough, fair-minded and well-respected jurist.

#### **A Wealth of Knowledge**

Judge Jones received his B.A. in 1975 from Boston University; his J.D. in 1981 from the University of Miami School of Law; and his LL.M, with highest honors in international law from New York University School of Law in 1983. Following graduation from law school, Judge Jones practiced civil trial law in Florida for 17 years at both a large firm and a small one.

What is interesting is that Judge Jones is the only magistrate judge to have served in all of Florida’s three district courts. Prior to his appointment to the bench in 2000, Judge Jones served as a part-time magistrate judge in the Northern District of Florida, Gainesville Division. When he began his term in the Middle District of Florida, Ocala Division, Judge Jones was cross-



designated in both the Northern and Middle District Courts, and he was also specially designated by the chief judge of the Eleventh Circuit Court of Appeals to serve for the better part of one and a half years in the Southern District of Florida, Miami Division.

Judge Jones is held in the highest regard by his fellow jurists, members of the bar, and (perhaps most important) the parties who appear before him. Such honor is well deserved, as he daily exhibits a great wealth of knowledge and experience that he has gained both as a judge and as an attorney.

#### **Career in the Courtroom**

While in private practice, Judge Jones first practiced law in the U.S. Virgin Islands—specifically, St. Thomas—because of his interest in international law. There, he joined the law firm of Dudley, Dudley & Topper, a practice that handled a wide variety of complex litigation matters—from representing local government entities to resolving international maritime disputes. While in St. Thomas, the judge also dabbled in sailing for the first time in his life. He eventually bought a Prindle and could often be seen sailing down Cruz Bay when he was not in the office. Although island life had its allure, it just wasn’t the place for the judge

and his wife, and the couple eventually moved back to the mainland to start a family.

The move also marked a new chapter in the judge's professional life when he joined the law firm of Hornsby & Whisenand in Miami. There, Judge Jones handled a wide array of cases involving transnational disputes and represented a broad range of clients, including foreign and domestic banks and foreign governmental agencies.

In 1988, the judge and another partner left Hornsby & Whisenand to start their own litigation boutique firm, Hickey and Jones, P.A. There, the judge continued a successful litigation practice handling a variety of complex litigation matters in Florida federal and state courts as well as in federal courts in Texas, Connecticut, and Hawaii. In addition to being an accomplished trial lawyer, Judge Jones frequently represented clients on appeal, having handled more than 30 appeals to various state and federal courts, including one appeal to the U.S. Supreme Court. One of the most noteworthy cases in which Judge Jones was involved was the successful representation of a client in an antitrust matter involving the rotary shaver industry, in which the client was awarded a \$100 million dollar verdict—the largest verdict in the history of the Southern District of Florida.

The judge continued to practice with the firm through 1998, when he relocated to Gainesville and was appointed to the federal bench in the Northern District of Florida. Two years later, the judge was appointed as the first U.S. magistrate judge to sit in the Ocala Division of the Middle District of Florida, where he currently serves with Senior District Judge William Terrell Hodges.

### Professionalism Personified

Everyone who has worked with or appeared before Judge Jones would agree that he is at all times the consummate professional. His professionalism, his sense of ethics, and his respect for others have a way of commanding the highest level of professionalism in his court. As a prior law clerk, I witnessed firsthand, and on a daily basis, his treatment of all the players in his court as equal to one another. No matter what their posture—from the most auspicious attorneys, to corporate chief operating officers, to criminal defendants—all had an abundant opportunity to be heard, all were accorded respect, and all appropriate arguments were duly and fairly considered.

During my first few weeks as a law clerk, when dealing with criminal proceedings or warrant issues, I would continuously recall my course work in criminal constitutional procedure and the highly valued mantra under our Constitution that a “detached and neutral Magistrate Judge” should be interposed between law enforcement and the criminal defendant so that law enforcement can function, but within the boundaries of the defendant's constitutional rights. Even though



Judge Jones with his current and former law clerks.

this important goal can, at times, be lost sight of as a result of the routine nature of first appearances, pleas, and warrant applications, Judge Jones makes sure that this goal is not forgotten in either his chambers or his courtroom. Rather, he strenuously adheres to this central, all-important mission with great vigilance.

When he is not doing the same in court, Judge Jones actively advances the cause of professionalism and ethics—previously as a six-year member of the Florida Bar's Committee on Professionalism and currently as a member of the Florida Bar's Ethics Committee. He has spoken on the topics of professionalism and ethics on a number of occasions both locally and at the state and federal levels, and he consistently endorses the idea that ethics begins and ends with the current members of the bar who must take an active role in demonstrating professionalism and encouraging it in young attorneys through mentoring.

### Perspectives as a Litigator and a Jurist

Judge Jones, having been a litigator for 17 years prior to his appointment to the federal bench, provides an interesting perspective on the differences between the role of a litigator and the role of a jurist. Being an attorney, he says, requires a different analytical process that is fundamentally adversary in nature. He explains that, as trial lawyers, attorneys invest their hearts and souls in their clients and their legal positions and cannot avoid being affected by rulings both in favor of and against their clients. Conversely, jurists must be divorced from the advocate's mentality and, more important, from their own personal views and private values. As a judge, Judge Jones is most gratified by rulings and decisions that ultimately result from the unbiased application of the law to the facts at hand—resulting in a product of the law rather than an extension or *production* of the law itself.

It is interesting that Judge Jones also points out that the work product attorneys present to the court

is often the result of work cumulatively accomplished by a group of people. The court's work, however, is done in isolation, which preserves the neutrality of the court and best serves the parties and society at large.

### Reaching His "PR"

The judge's senior law clerks are expected to take part in interviewing prospective law clerks. Candidly, when I interviewed candidates in chambers, I gave them more information than I actually elicited from them. Even though this practice may be attributed to an overblown ego, I would like to think it was more helpful to candidates in choosing their prospective employer. And let's face it, if a lawyer is being interviewed for a federal clerkship, he or she is likely to be a strong candidate for the position based on credentials alone. In the case of our interviews, if candidates had a love for running, they would receive extra points, because the judge, quite simply, is a running fanatic.

I learned about the degree to which the judge is drawn to running marathons within the first few hours of my first day clerking for him, when he explained to me that he had recently achieved his "PR" while training for the U.S. Marine Corps Marathon, which was scheduled to take place in a few weeks in Washington D.C. Sadly, all the details of his explanation were lost because of my ignorance of running terms such as "PR." But as the days turned into weeks and weeks turned into months, I learned that "PR" means one's "personal (best) record" and also learned how very grueling it is to train for and run a marathon. I was not surprised to learn that Judge Jones had run 11 marathons since had he picked up the sport.

When asked what attracts him to running marathons, Judge Jones responded that running is a microcosm of life. It requires setting goals, developing a plan to achieve established goals, having the flexibility to modify that plan when unexpected events occur, and maintaining sheer determination to reach or exceed one's goals.

Actually, training for and running marathons reflects Judge Jones' treatment, theory, and practice of the law. Like the physical stamina needed for running a marathon, Judge Jones exhibits a consistent analytical stamina in unfolding and applying often complex nuances of the law. Just as a marathon tests one's

passion for running, so too complex and sophisticated litigation tests one's passion and zeal for the law. Given this analogy, one might conclude that Judge Jones is at a full sprint toward a *daily* PR in and out of the courtroom.

### Parting Words

As the judge would agree, brevity is bliss, so I'll keep this short. I am very pleased and honored to have had this opportunity to share my experiences with, and perceptions of, U.S. Magistrate Judge Gary R. Jones, both as a judge and as a human being. He is a good man with a brilliant mind, a healthy sense of humor, and a very sharp wit. Some parting advice? Never challenge him to a race. **TFL**

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