

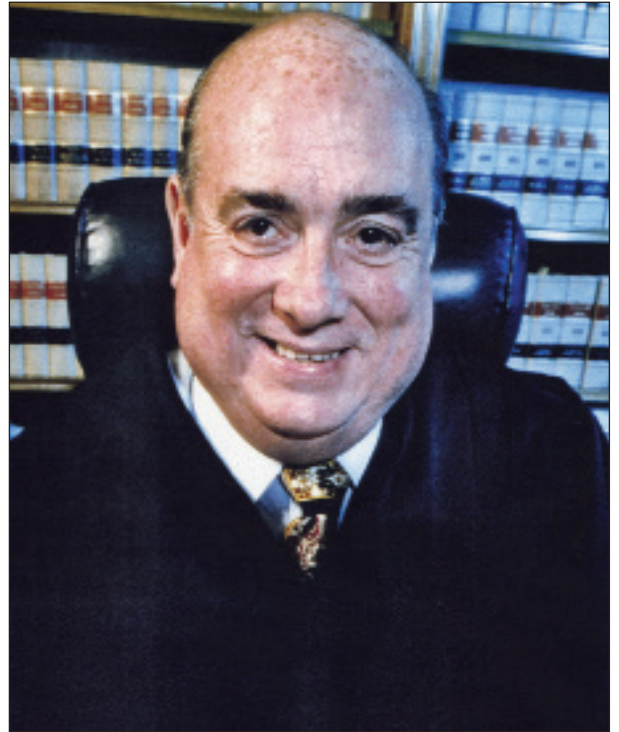
Judicial Profile

THOMAS A. BEDNAR

Hon. Royce C. Lamberth Chief Judge, U.S. District Court for the District of Columbia

AT ONE TIME or another, every lawyer has probably had the sensation of getting shot down in the process of trying to prove a case—either by a recalcitrant witness, a nettlesome opponent, or a meddling judge. That moment came for Royce Lamberth—a bit unexpectedly and much, much too literally—aboard a Huey helicopter spiraling out of control over the jungles of Vietnam in 1970. Lamberth, then a captain and lawyer for the Army Judge Advocate General's Corps and now a federal judge, joined the other soldiers onboard in thinking that they had been shot down, so when the chopper crash landed, its occupants “fired like hell” at the tree line, until they realized no one was shooting back. They had crashed because of mechanical failure, not enemy fire.

It was one lawyer's tenacity that landed them there. Just over two years out of law school, Lamberth had been appointed to represent six Army Rangers who had ambushed a group of North Vietnamese soldiers along a Viet Cong supply route called the Jolley Trail and then bragged that they mutilated the corpses in order to leave a gruesome calling card. The Rangers later claimed to have made up the tale over a few beers, but the Army disagreed and charged them with war crimes. Lamberth demanded production of the bodies, arguing that there could be no prosecution without the corpus delicti. He may have poured on too much rhetoric when he insisted that his clients were at risk of “having their rights trampled on.” This piqued the nerve of the commanding general, who ordered an aerial rifle platoon to search the alleged crime scene for bodies and ordered Capt. Lamberth to accompany the platoon “to make sure no one's rights get trampled.” The investigation scene was so dangerous that the platoon could safely land only after Air Force jets and Army gunships bombed and strafed the area. The platoon took off at first light, with Lamberth



wondering what he had gotten himself into.

After crashing and while waiting for a new helicopter to airlift them out of the jungle, Capt. Lamberth and the platoon walked the trail, stopping along the way to blow up a bridge and a bunker that, to Lamberth's relief, turned out to be empty. They found supplies left by the North Vietnamese as well as a good deal of blood, but no bodies. Lamberth's gambit having succeeded, the charges were dropped. Word traveled through brigades across Vietnam, and soon scores of accused enlisted men were requesting Royce Lamberth as a lawyer. Clearly, the man would do anything for a client.

Lamberth's trip to the Jolley Trail may seem like an object lesson in the need to be careful about what you ask for. Yet it is also an example of the tenacity, creative boldness, courage, and willingness to challenge authority and convention that have marked the career of Royce C. Lamberth, chief U.S. district judge for the District of Columbia. In a public service career that has spanned the Army, the District of Columbia's U.S. attorney's office, and 20 years on the federal bench, Judge Lamberth has never been afraid to come under fire for what he thought was right.

“Mr. Integrity”

Judge Lamberth was born in 1943 in San Antonio, Texas. His mother was a former teacher turned homemaker and his father was chief of the motor pool at Kelly Air Force Base, then the world’s largest air base. Lamberth grew up with a strong work ethic—in high school he rose before dawn to work at a doughnut shop—and he does not hesitate when asked to name a role model: “For role models, there’s my father. He was Mr. Integrity, and for me it was best to be that, to have everyone know you as Mr. Integrity. That was really the thing, to be known for integrity.” A sense of integrity—of maintaining consistent beliefs and conforming words and actions to them, of following through on commitments, and of refusing to compromise certain core principles—has been apparent throughout Lamberth’s career.

According to his twin brother, young Royce was all of seven years old when he decided to become a lawyer like Perry Mason. While attending college and law school at the University of Texas at Austin, Lamberth spent his summers in Washington, D.C., where he waited on tables at a Howard Johnson’s and spent mornings getting to know the capital by attending congressional hearings, wandering into administrative agencies, and exploring the city.

After graduating from law school at the height of the Vietnam conflict in 1967, the tall Texan with the Southern drawl was drafted into the Army, having decided that he would not apply for the Judge Advocate General’s (JAG) Corps, because its four-year commitment “seemed like forever.” Lamberth was sworn into the Texas Bar on Dec. 4, 1967, and into the U.S. Army the next day at Fort Dix in New Jersey. After contracting pneumonia from bivouacking during the first snowfall he had ever seen, four years with the JAG Corps suddenly didn’t seem so bad after all. Lamberth applied, winning one of only a few JAG Corps slots.

After a year spent trying cases in the states—in his first trial he was the assistant prosecutor in a murder case—Lamberth volunteered to go to Vietnam, where JAG lawyers often flew to forward positions to try cases, rather than leaving field units shorthanded by calling witnesses and defendants to fly to command staff. Low-flying, unarmed observation helicopters carried the lawyers and judges close to enemy lines, where proceedings were usually held in tents. Lamberth tried more than 300 cases during his time in Vietnam as part of the storied 1st Cavalry Division, the first American division to deploy to Vietnam and the last to leave.

Lamberth’s commander had promised him his choice of positions upon his return to the states in 1971, and he chose the federal litigation post for the Army at the Pentagon, which represented the Army’s interests across the country. Lamberth says that it was “one of the best jobs I ever had.” Even though he loved the Army, Judge Lamberth liked the idea of



Judge Lamberth grew up in San Antonio, Texas, and attended the University of Texas at Austin for both his undergraduate and law degrees.

having more control over where his job would take him; therefore, in 1974, he started looking for a new job. His first major career decision, which turned out to be his last, involved just such a question of geography: whether to accept offers to be an assistant U.S. attorney in Washington, D.C., or in his hometown of San Antonio. Lamberth’s interest in politics and his love of D.C. made that city a good fit. At the same time, he had always thought he would return to San Antonio to one day pursue elected office. But the more he saw of politics, the more he was convinced that doing the things a politician must do to get elected and to stay elected—raising the money, making the compromises, and so forth—was not what he wanted. Although he “liked the idea of being able to influence things and work in government,” that side of politics “turned me off to being the front guy. I would rather be one of the behind the scenes guys trying to get things done.” That desire to make an impact, coupled with his drive to “see how I could do in a bigger pond,” led him to stay in D.C.; since then, Lamberth says, “everything else has just sort of fallen into place.”

U.S. Attorney’s Office

In a little more than a decade in the Civil Division of the U.S. attorney’s office—which included being detailed to assist Attorney General Griffin Bell and the White House on executive reorganization projects—Lamberth made his mark in a number of high-profile cases and moved up to become chief of the Civil Division in 1978. For example, during the tense months of the Iranian hostage crisis, President Carter sought to clamp down on pro-Iran demonstrations in the capital, fearful that a violent backlash against the pro-Iran protestors in the United States could spark

fatal reprisals on the captives in Tehran. With a combination of diplomacy, creativity, and stubbornness, Lamberth devised a compromise route along which the protestors could march, and he got the courts to bless it. This compromise required him to stand up to both the protestors and the White House, which was pushing for a harder line that Lamberth said “wasn’t going to work.” Therefore, he insisted on his strategy, saying that “I couldn’t sell that, and I wouldn’t,” and the White House relented, agreeing to the compromise solution.

In early 1981, having gained public recognition under Carter, Lamberth was nervous that he would not be retained when the Reagan administration took over. At the time, the U.S. attorney was involved in a bitter dispute with local lawyers over the fees awarded in successful cases against the government. The U.S. attorney did not want to court controversy himself on the eve of a new presidency, so he sent Lamberth to deal with the angry lawyers. Lamberth’s salvation came on inauguration day, in the form of a *Washington Post* column by Al Kamen, who wrote that “Royce Lamberth is a tight-fisted government lawyer who in the last few years has done more than anyone to unite Washington civil rights lawyers. The only problem is: They are all united against him.” Lamberth says that such harsh criticism from the *Post*, which had pitted itself against Reagan, was “like manna from heaven,” and Reagan’s budget hawks pictured Lamberth as a lone civil servant protecting taxpayer dollars from greedy lawyers. Thereafter, Reagan’s advisers took an interest in him and involved him in important cases, and soon, according to Lamberth, “I could do no wrong with the Reagan people.”

Lamberth’s first advice to lawyers is “be prepared,” and it was quick thinking and a willingness to work through the night that helped Lamberth carry the day during the Reagan administration’s first major test—the air traffic controllers’ strike, which Lamberth and Justice Department lawyers dealt with in one day: they successfully moved for a temporary restraining order at 3 a.m., moved for a contempt order at 8 a.m., and were conducting a full-blown contempt trial against the air traffic controllers’ union by 9 a.m. The DOJ’s success in that case was a “big victory for the President,” Lamberth says, “that just got things started” as far as he and the White House were concerned. Other big cases followed, and Lamberth embraced the challenges, even when that meant taking on Ralph Nader and the attorneys general of all 50 states in their challenge to an appropriation decision by the President (“Did all 50 have to be against you?” his mother exclaimed after watching oral argument, “Even Texas?”).

As chief of the Civil Division of the D.C. U.S. attorney’s office, Lamberth rode herd over almost 30 lawyers who handled half of the district court’s civil docket, yet somehow he managed to read every court filing and piece of outgoing correspondence.

He was a demanding boss but also one who fostered “an extremely high esprit de corps,” says Mark Nagle, who worked for Lamberth and was later chief of the division himself. “Everyone knew it was a real honor to stand up on behalf of the United States of America,” Nagle says, “and Judge Lamberth really reinforced that. There was an air of excitement and drama to the work we did.”

U.S. District Court

On March 18, 1987, President Reagan nominated Lamberth for a seat on the U.S. District Court for the District of Columbia, and Lamberth was confirmed in November of that year, becoming the first district judge in D.C. to be nominated from a position as an assistant U.S. attorney. He came to the bench with a few judicial role models in mind. Shortly after confirmation, Lamberth attended “baby judge” school in Richmond, conducted by his principal judicial role model, Judge Walter Hoffman. In Lamberth’s eyes, Hoffman was “the epitome of a perfect judge,” who laid out “a philosophy of what it is to be a judge,” which Judge Hoffman had formed over a remarkable 40 years on the bench of the Eastern District of Virginia, where he developed that court’s “rocket docket” manner of handling cases with dispatch. A colleague once referred to the “exhaustive industriousness” of Hoffman, who frequently held court proceedings on Saturdays and was trusted with such delicate assignments as serving as a Supreme Court special master and handling trials for public officials charged with corruption, such as Vice President Spiro Agnew and a Nevada judge.

Judge Lamberth notes that he also “came in under the leadership of Aubrey Robinson,” who was chief judge of the D.C. District Court at the time of Lamberth’s investiture and who served on the bench for some 30 years in all. Robinson was able to move his docket along, Lamberth says, because “he could decide cases and get on with it. He considered himself merely a way station on the way to the Court of Appeals, and his motto was that ‘I’ll give each case my best shot and not worry about it after the fact.’” Judge Robinson also handled his share of controversial cases: he sentenced Jonathan Pollard, who was convicted of spying on the United States for Israel, to life in prison, and spent years tangling with D.C.’s mental health and welfare bureaucracies. Lamberth also admired Judge Stanley S. Harris, who had learned the ins and outs of the D.C. legal landscape over the course of a career that included service as a D.C. Court of Appeals judge, U.S. attorney for the District of Columbia, and federal district judge. It was Harris who first suggested Lamberth as a judicial prospect to White House lawyers, and it was Harris who reached out to Lamberth in friendly fashion when he became a judge.

Like Judges Hoffman and Robinson, Lamberth is an efficient judge, who has presided over countless

cases that were especially delicate or controversial. Shortly after taking the bench, he conducted the trial of Clair George, a former deputy director of the Central Intelligence Agency who was charged in the Iran-Contra scandal. In the 1990s, Lamberth managed a slew of suits involving the Clinton administration, including the notorious “Filegate” case. The judge has issued a series of rulings holding Iran responsible for overseas terrorist attacks on U.S. citizens in the 1980s and 1990s, resulting in billions of dollars in judgments and the promise of justice and accountability for family members of the deceased. Lamberth also presided over the District of Columbia’s first prosecutions of capital crimes in over a generation, brought against drug kingpins under the federal death penalty statute. Those sprawling and unprecedented gangland cases, one of which took more than a year to try, called for creativity and the organizational skill to hold together the parties, witnesses, and jurors. The cases also tested his physical courage, as he worked in a courtroom secured by a bulletproof partition and traveled with a U.S. marshal because of how dangerous the cases were.

As a career public servant who hears countless cases involving the federal and D.C. governments, Lamberth has developed a reputation as a jurist who “squarely calls people onto the carpet when they don’t meet his expectations for candor and public service,” says Carol Leonnig, who as a *Washington Post* reporter covers many of Lamberth’s cases. Leonnig reasons that Lamberth “knows well the challenges and pressures of working for the public, and yet holds himself to a very high standard and isn’t willing to give the people in his courtroom any slack or any lower standard.” Nagle, Lamberth’s colleague at the U.S. attorney’s office, explains that, “as a lawyer and now as a judge, Judge Lamberth believes that representing the United States in District Court is a high calling. He did and does expect thorough preparation and presentation” on the part of government lawyers, because “all lawyers for the government, particularly those in a prosecutorial role, have an obligation that transcends the individual client in the individual case.” As Nagle once told the *Washington Post*, Lamberth “believes every person—whether it’s

the president of the United States or an administrative clerk—has a duty to serve the American people and do their duty as required under the law.”

Even though Lamberth’s scolding of government lawyers who show a lack of diligence or candor “may feel extremely cutting, and even derisive at times if you’re the recipient of his critique,” Leonnig observes, “if you’re the taxpayer or the employee or the everyday Joe whose life is affected by government policy or decision making, it would seem like the right standard.” For instance, for a decade, Lamberth prodded along the massive, lumbering Indian trust fund case, cementing his reputation as something of a maverick who demanded that government agencies live up to the standards of good faith and fair dealing that the public deserves. That case is finally inching its way toward resolution before another judge, and scores of Native Americans have expressed their gratitude to Judge Lamberth for taking the time to understand their story and for applying unrelenting pressure to see that justice was done.

During much the same period, Judge Lamberth also served as chief judge of the Foreign Intelligence Surveillance Court, the secret panel that rules on government surveillance applications related to national security. During that time, Lamberth worked to cement a balance between the rights of citizens and the needs of government in an era marked by the advancing threat of terrorism. On Sept. 11, 2001, stuck in traffic and engulfed in smoke from the Pentagon building burning nearby, Lamberth approved emergency wiretap applications by phone as he waited for U.S. marshals to escort him to chambers, where he approved more applications. It was in some ways reminiscent of the young JAG attorney who managed to win his clients’ case while waiting to be airlifted out of the Jolley Trail.

Friends and Family

Judge Lamberth has been involved in the Federal Bar Association since the 1970s and has served in several leadership posts. In 1990, he helped draft the FBA’s *Model Rules of Professional Conduct for Federal Lawyers*. He also won the Earl W. Kintner Award for Distinguished Service, which is presented annually and named in honor of the late national



Lamberth as an Army JAG in Vietnam.



Judge Lamberth and his wife Janis.

FBA two-term president. Lamberth says that, “as I did, young lawyers can get a lot of benefit out of the associations you develop through FBA and other bar groups, which can be really significant and very helpful. I still have many friends from Federal Bar days.” Lamberth admits that, as a judge, “some of your oldest friends remain your best friends, and you have to look somewhat askance at new friends because of your position.”

Yet Lamberth has old friends aplenty. He has been married to his wife Janis, a former teacher and reading specialist, for almost 30 years. The judge and his wife, who met when Janis’ sister married Royce’s older brother, are world travelers, despite their reluctance to leave their beloved dog in a kennel. In 20 years on the bench, Lamberth has developed an extended family of courthouse adherents—from law clerks (there is always at least one from the University of Texas), deputy clerks, and court reporters to his judicial assistant of many years, Saulene Brown. The size of his chambers staff increased on May 1, 2008, when he became chief judge of the district court, taking over for his close friend and colleague Thomas F. Hogan.

Lamberth’s clerks know him well through close contact, whether that means commanding his ponderous town car through downtown traffic or being regaled at law clerks’ Friday lunches with the judge’s accumulated stories of more than 35 years spent trying cases in the nation’s capital. Despite his

success, he works just as much as his clerks do—if not more—and he admits that “there’s no substitute for hard work. I don’t think I ever did well for any reason other than that I worked hard.” While Lamberth is known in some quarters as quick to crack down on lawyers who don’t meet his expectations, Mark Nagle points out that “he is just as quick and generous with words of praise and words of recognition.” The judge’s clerks have seen his many sides, as has any lawyer who has practiced before him for long. Judge Lamberth’s natural impulse is to like people and to sympathize with them. He has a hearty, often irreverent, but always good-natured sense of humor, and when the guffaws start to emanate from his office, his clerks know that he is soon to burst out with another “Can you believe this?” story. They also know that, even though he tries, in his words, to “give each case my best shot and not worry about it after the fact,” Judge Lamberth sees and appreciates the human side of every case that comes before him—whether it involves high government officials, big-money litigation, or the individual men and women caught on the wrong side of D.C.’s drug trade.

That ability to focus on the practical reality of each case is a skill Lamberth honed over the course of many major cases with significant consequences. Judge John Sirica, the Watergate judge who also served as chief judge of the U.S. District Court of the District of Columbia, once said that “a great intellectual doesn’t make a great trial judge. A man who’s been a trial lawyer is a better judge of human nature than Professor X at Harvard, who’s probably never been in the well of a courtroom. ... The important question is whether a judge is honest and does he have the courage of his convictions to do what is right at the moment.”

Royce Lamberth has faced many a tough moment ever since Vietnam, each time drawing on the courage of his convictions to do what is right without hesitation. He can look forward to many more big moments in the years to come. **TFL**

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