

Judicial Profile

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Behind the Bow Tie: Judge Alan E. Norris U.S. Court of Appeals for the Sixth Circuit

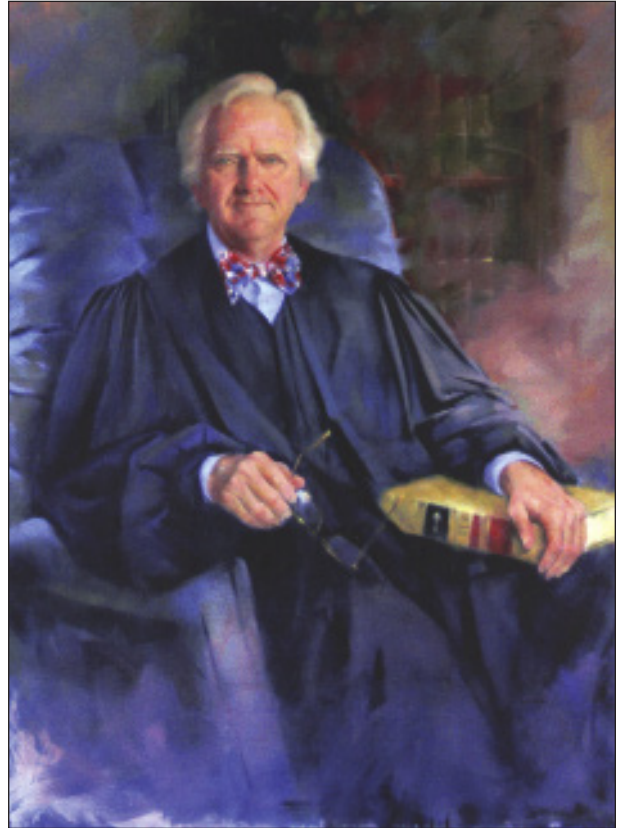
JUDGE ALAN E. Norris, a senior judge on the U.S. Court of Appeals for the Sixth Circuit, is a plain talker who gives everyone the impression that he is an open book. Judge David A. Nelson, his longtime colleague on the federal bench, described him as a “straight shooter.” Yet an examination of Alan Norris’ life and career reveals that the judge has been subject to varied and often contradictory influences.

On a dark and dreary day in Columbus, Ohio, Judge Alan E. Norris, an unlikely volume of white hair crowning his dome, his feet propped upon his desk, fumbles impatiently with the *Wall Street Journal*. The buzzer sounds, and Terrie Carter, the judge’s cheerful secretary, welcomes the UPS deliveryman. The judge turns around in his chair, but alas, the day’s packages bring only disappointment. The Union general’s hat, marked with three stars to indicate the rank with which a federal appellate judge is co-equal, has not arrived.

This episode, which has repeated itself far too often over the past month, reveals that Judge Norris is a history buff. He has a particular interest in the history of Ohio, his native state, and has authored articles on Ohio’s Unknown Soldier and on the true importance of George Rogers Clark’s victory in the Battle of Piqua. New arrivals to his chambers are strongly encouraged to read Allan Eckert’s historical novel, *The Frontiersman*, so that they can soak up the minutiae of Ohio’s settlement.

On the bench, Judge Norris is a judicial conservative. He believes strongly in the notion that the judiciary must abstain from legislating and accord Congress significant deference. Although his opinions are the product of thorough research and a complete consideration of the record, they are nevertheless marked by succinctness and brevity.

Though his political leanings are difficult to ascertain from his opinions, they remain a vigorous presence in the judge’s chambers. Clerks receive daily excerpts from the *Wall Street Journal* in their in-boxes, occasionally accompanied by the *Weekly Standard*’s parody section. A visitor to the library in the judge’s chambers will promptly discover the following sign: “Thou Shalt Not Steal: The Government Hates Com-



Judge Alan E. Norris. Portrait by Jamie McMahan.

petition.”

The judge’s friendly manner and straight talk mask his history as a big city sophisticate. While an undergraduate student, Judge Norris earned a certificate from the Sorbonne in Paris. Although his fellow conservatives might consider it subversive, the judge remains a devoted Francophile, visiting France on occasion and more frequently traveling to Quebec. Judge Norris attended law school at New York University, located in Greenwich Village in the heart of New York City. Despite the strong urban strain in his education, Judge Norris retains a small-town attitude. He once asked in mock surprise, “You mean to tell me you never went out to the dump to shoot rats?” The question was followed with the kind of falsetto belly laugh one would expect to hear between yeehaws at a hootenanny. Clearly, Judge Norris is a far more complicated man than he lets on.

Born in 1935, Judge Norris is the son and grandson of

clothing merchants. He grew up hawking socks at the family store in Westerville, Ohio, just outside of Columbus. To this day, he can quote the price of a silk tie in the early 1950s: \$2.50. Sixth Circuit Court of Appeals Senior Judge David A. Nelson credits a childhood in Westerville with instilling in Judge Norris “industry, practicality, respect for learning, self-discipline, public spiritedness, and good old-fashioned neighborliness.” On the one hand, Westerville made an Eagle Scout of Judge Norris, and he is therefore by definition “trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean and reverent.” On the other hand, it is likely that Westerville also provided the judge with opportunities to go “out to the dump to shoot rats.”

Judge Norris’ academic career was stellar. He stood first in his graduating class at Westerville’s Otterbein College and received the coveted Root-Tilden Scholarship to attend New York University Law School. While in New York, he had the typical New York experiences. For instance, he witnessed a gang fight in which the participants threw a ladder at one another. Also, because Westerville was “dry,” the judge likely developed his taste for martinis during this bohemian interlude. The judge maintained his love of learning throughout his professional career, earning an LL.M. degree from the University of Virginia School of Law at the age of 50. Judge Norris also holds two honorary doctorates, one from Otterbein, his alma mater, and another from Capital University School of Law in Columbus, Ohio.

Upon completing his law degree at NYU in 1960, Judge Norris “couldn’t wait to start practicing law.” His first job was as a law clerk to Hon. Kingsley A. Taft, justice (and later chief justice) of the Ohio Supreme Court. Judge Norris then did a stint at Vorys, Sater, Seymour & Pease, a large law firm in Columbus. He returned to Westerville in 1962, joining Metz & Bailey, later known as Metz, Bailey, Norris & Spicer, where he served as a partner from 1965 until he left the firm in 1981. His practice was general; the judge dealt with clients’ divorces, wills, and deeds to property while handling trials, appeals, and bankruptcies. He also served for a time as Westerville’s city prosecutor and taught business law at Otterbein.

In 1966, Judge Norris threw his hat into the ring and won the first of seven two-year terms in the Ohio House of Representatives as a Republican. He rose in the party ranks and eventually served three terms as party whip. During his tenure, Judge Norris sponsored a significant number of major bills, including the first complete revision of Ohio’s criminal code since statehood. In addition, he was the chief sponsor of the Divorce Reform Act, the Alcohol Control and Treatment Act (known as the Norris Act), the Small Claims Court Act, the Organized Crime Control Act, and a major revision of the state’s motor vehicle code.

The judge actively strove to improve the administration of justice while in the legislature. He co-sponsored Ohio’s Modern Courts constitutional amendment, imple-

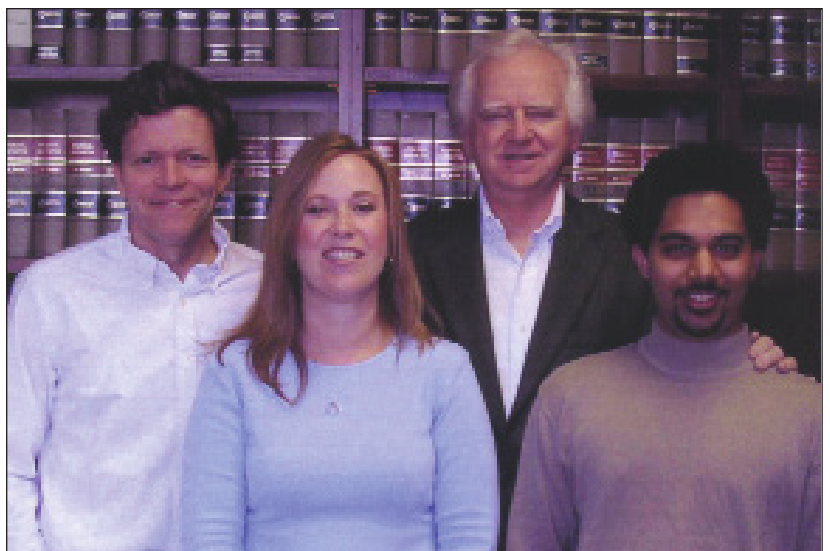
mented speedy trial deadlines as a part of the criminal code, and co-sponsored the Court of Claims Act. Not all of his efforts met with success: he was unable to obtain passage of a constitutional amendment implementing a merit selection plan for judges and instituting a unified court system in Ohio. He chaired the Joint Committee on Criminal Rules of Procedure, served as a member of the joint committee charged with scrutinizing proposed rules of evidence, and chaired a committee of the Ohio Constitutional Revision Commission on grand and petit juries. Judge Norris’ service in the legislature also enabled him to showcase his knowledge of state history as chair of Ohio’s Bicentennial Commission.

Hon. Thomas J. Moyer, current chief justice of the Ohio Supreme Court, has praised Judge Norris as “a lawyer’s legislator.” As the chief justice explained, Judge Norris “oftentimes wrote his own legislation and then of course sponsored legislation that was clear, concise, and respectful of the Ohio Constitution.”

Judge Norris thinks that his experience in the legislature forced him to listen to all points of view before coming to a decision: “I disciplined myself to keep an open mind.” Evidence clearly supports the judge’s contention that he had an open mind. Hon. Jeffery P. Hopkins, U.S. bankruptcy judge for the Southern District of Ohio and a former Norris clerk, recalls hearing praise for the judge from a Democratic member of the Ohio House prior to commencing his clerkship: “You’re going to work for a great person. No member of my own party took the time when I was a freshman as did Alan Norris to teach me how to introduce bills, bring them out of committee, and get them passed. And for that unselfish act of kindness and statesmanship I will be forever grateful.” The Ohio Academy of Trial Lawyers named Judge Norris Legislator of the Year.

However, to paraphrase Winston Churchill, even though the judge had an open mind, it was not so open that his brains fell out. Once he arrived at a decision, Judge Norris was not above slogging it out in the style of a true politician. As recounted by Chief Justice Moyer, “Statehouse veterans still talk

PROFILE *continued on page 14*



In chambers — Career law clerk Jim Zafris, secretary Terrie Carter, Judge Norris, and profile author Sameer Yerawadekar.

about the six-day war when Democrats used their last remaining days in the majority to push through the legislative agenda. I'm told that Alan was so annoyed by their tactics that he placed a miniature steamroller on his desk and played the sound of a locomotive through the public address system of the House chambers." If anyone wishes to examine that steamroller, it is on display in the judge's library.

In 1980, Judge Norris earned his title and was elected judge for Ohio's 10th District Court of Appeals. During his election campaign, the Columbus Bar Association and both local newspapers endorsed his candidacy, and nearly 94 percent of lawyers polled by the association ranked him favorably. It is uncertain whether he wore his signature bow tie the first time he appeared on the bench, but it clearly began appearing with some regularity from that point forward. It is certain, however, that the hair was present.

Despite arriving on the bench straight from the partisan atmosphere of the Ohio House, from the outset the judge refused to inject his political views into the process of deciding cases. Judge Hopkins recalls Judge Norris saying "politics has no place in the decision-making process. There will be no result-driven decisions coming from this chambers."

It was while serving on the state court that Judge Norris adopted the practice of writing short and to the point. He recalls having succumbed to the temptation to turn "a cute phrase" in a state court opinion. "An attorney used it to support his position in a later case, so I had to disaffirm my statement in the opinion in that appeal." Since then, the judge has limited his turning of cute phrases to dinner conversations.

While serving in the Ohio legislature, the judge authored two articles about the power of the federal judiciary: "Bringing Federal Judges to Account" and "How to Check the Power of Our Federal Judiciary." These titles do not demonstrate a flattering view of the federal judiciary; nevertheless, in 1986, Judge Norris found himself appointed and confirmed to the U.S. Court of Appeals for the Sixth Circuit, the appellate court for federal cases arising out of Michigan, Ohio, Kentucky, and Tennessee. He considers it the proudest moment of his professional career.

In an interview conducted soon after he joined the federal bench, Judge Norris explained what he considered the role of a federal appellate judge to be: "We're an intermediate court and our function is not to write glowing opinions. We simply have to take the time to study a case and get the job done right, since we're usually the court of last resort." Judge Norris also

explained that he took care to avoid deciding cases based on the abilities of the lawyers presenting them. Over his years on the Court of Appeals, the judge has authored over 1,100 opinions without blather or bloviation, and he has further saved paper by concurring separately and dissenting in fewer than 100 cases.

In 2001, Judge Norris assumed senior status, allowing him to maintain a less demanding caseload. He has been able to travel more frequently and is apparently determined to visit every Civil War battlefield in the nation. He also has more time to spend with his family: his wife, Carol; his two children, Tom and Tracy; and several grandchildren. For his grandchildren, the judge has crafted a new literary form: the "Farry Potty" story. These stories, parodies of the more well-known Harry Potter series, feature Farry, a precocious preteen time-traveler who influences major events in world history.

Judge Norris' lovely wife, Carol, is a frequent companion on his travels and is responsible for the maintenance of several cats.

The judge has divulged several stories about his courtship with Carol, and most recently he recounted that she had proposed to him upon discovering their mutual hatred of onions. It is a dubious tale but is related here because Carol was present for its telling and did not challenge its veracity.

Judge Norris has participated in many civic and church organizations over the years. He was a member of the board of trustees of Otterbein College and has served as a member of the board of governors of the Westerville Fund of the Columbus Foundation. He has been the president of his local historical society and Kiwanis Club, president of Otterbein's national alumni association, and master of his Masonic Lodge. He was recognized for his community

service with the Westerville Jaycees' distinguished service award and with a special achievement award from Otterbein. He has served on his church's board of trustees and numerous committees, taught Sunday school, and served on the board of trustees of the United Methodist Children's Home in Worthington, Ohio.

Judge Norris has authored and sponsored many pieces of legislation and decided thousands of appeals. But part of his legacy must be measured by the success of his many protégés. Ohio's governor, Bob Taft, served with the judge in the legislature and credits the judge with teaching him the ropes. John Kasich, a former Ohio congressman and presidential candidate, also took to his tutelage. Judge Hopkins, his former clerk, considers the judge



Judge Norris confirmed: a good hair day.

a great teacher and mentor.

The varied influences upon Judge Norris — small town and big city, political and legal, associational and academic — have shaped a fellow with a sharp mind, quick wit, and friendly manner. Attorneys appearing before a panel of the Sixth Circuit nevertheless should be warned: Beware the bow tie. Assuming senior status is not an indication that the judge is going soft. Judge Norris, readily identifiable from his neckwear and coiffure, will ask the two or three questions most pertinent to his decision in a case, and attorneys unprepared for such direct interrogation may find themselves effusing unnatural volumes of perspiration. If, however, an attorney finds that the judge in the bow tie is going easy on him or her, there can be only one possible explanation: the UPS deliveryman came through and the three-star Union general's hat has finally arrived. **TFL**

Sameer Yerawadekar currently serves as a law clerk for Judge Norris. He would like to acknowledge Emily Huddleston for permitting him to use excerpts from her interview of the judge and Jim Zafris for his editorial comments. Finally, the author would like to thank Judge Norris for continuing to employ him despite his authorship of this profile.