



Hon. Dan A. Polster

U.S. District Judge for the Northern District of Ohio

by Jeremy A. Tor



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Dan Aaron Polster grew up in the Ludlow neighborhood, the first in Cleveland—and one of the first in Ohio—to be successfully integrated in the 1950s. Polster credits his parents (and other socially conscious individuals) for that success.

In the 1950s, when African-Americans moved into a neighborhood, two things happened. First, banks drew a red line on a map around the neighborhood to indicate they would no longer issue mortgages there. This came to be known as “redlining.” The second practice was called “blockbusting.” Realtors would go door-to-door and frighten white families into selling their homes, warning that the influx of African-Americans would cause home values to plummet.

In response, Polster’s parents and others banded together to form the Ludlow Community Association. They hosted real estate potlucks for prospective home buyers and pooled their resources to provide second mortgages. The goal was to encourage white, as well as African-American, families to move into and thus to stabilize the neighborhood. It worked.

This story of successful racial integration was covered by *The Wall Street Journal* and *Reader’s Digest* and is a case study for sociologists and urban planners around the world. *Reader’s Digest* described Ludlow in the late ’60s as a “stable, high-quality, biracial neighborhood” and its accomplishments as a “moving chapter in the history of race relations in the United States.”

When I sat down with Polster to talk about his upbringing and his pathway into the law, he reflected on his parents’ efforts: “Ordinary people can do extraordinary, heroic things if they recognize the opportunity and realize, ‘This is my time to do something significant, I’m not going to take a pass.’ Usually people take a pass.” But Polster didn’t fully appreciate the significance of his parents’ activism until later in life.

In fact, until the sixth grade, Polster wanted only to become a professional baseball player. He had a role model close at hand; his Little League coach was Al Rosen, the Cleveland Indians and four-time All-Star third baseman. (Rosen’s son was on Polster’s team.)

Unfortunately, Polster’s dream clashed with reality; as he readily acknowledges, he lacked any natural abil-



ity. Still, his parents never discouraged him and never told him he needed a backup plan. They probably figured he’d come to the conclusion on his own. And he did.

One day at practice Rosen told the team, “Today I’m going to teach you how to hit a curveball.” From the mound, he threw slow, easy curves. Polster was smart enough to anticipate how the ball would move through the air. But he could not—no matter how hard he tried—make himself swing where he knew the ball would end up as it crossed the plate. He would swing where it started. As a result, he never got within a foot of the ball. He left practice that day feeling deflated, and when he got home he threw his glove on the floor and declared, “I guess I’ve gotta be a lawyer.”

Polster remembers this episode vividly; he is less clear how the idea of becoming a lawyer originated in his mind. He did not grow up with lawyers. The closest lawyer in the family was a great uncle. He does remember watching “The Defenders,” a TV show about criminal defense lawyers who took on tough cases and often lost. The show fascinated and intrigued him. But it seems unlikely a TV show alone can account for his decision to become a lawyer. One suspects his parents’ activism had a greater influence.



Judge Polster has been active in the Cleveland Metropolitan Bar Association's and Cleveland Metropolitan School District's "3Rs" Program ("Rights, Responsibilities, and Realities") since its founding in 2006. The 3Rs Program teaches constitutional rights and career planning to high school students. Here, Judge Polster leads a classroom discussion at Cleveland's Lincoln West High School in the 3Rs Program inaugural year. (Photo provided by the Cleveland Metropolitan Bar Association.)

In any event, Polster "was absolutely convinced of that path until senior year of college when suddenly it seemed as though everyone was going to law school." This gave him pause. He asked himself, "Was the idea of becoming a lawyer something I'd seized upon when I couldn't hit Al Rosen's curve but something I never really got much thought?"

The self-doubt motivated him to defer law school for a year. He took a fellowship in the New York City Department of Consumer Affairs, which at the time was headed by Bess Meyerson. He performed quasi-legal work under the supervision of lawyers. By the end of the year, he was certain he was going to law school for the right reasons.

His plan as he entered law school was to work in the public sector. This was atypical at Harvard Law School, where the students were subjected to a process of heavy socialization, which left many convinced that the purpose of law school was to become a corporate lawyer. The belief permeated the school, but it didn't persuade Polster. He had his sights on the Department of Justice (DOJ).

In the fall of 1975, the main vehicle into the DOJ was the honors program. The person who came to campus to conduct interviews was the assistant attorney general for the Office of Legal Counsel, a man named Antonin Scalia. Polster entered the room but he didn't sit down. Scalia was staring at papers on his desk and, without looking up, asked, "If you get the job, will you stay at least three years?"

"Yes, sir," Polster replied.

"Thank you, that'll be all." And out Polster went.

He remembers being in the room for no more 20 seconds, and he left feeling stunned and crestfallen. To make matters worse, some of his classmates said they'd engaged Scalia in long philosophical discussions about the law. Polster was sure he'd blown the interview. He was wrong. Something about his resume must have impressed Scalia, and he got the job. And he ended up staying more than three years; he spent six years in the antitrust division and 16 as an assistant U.S. attorney (AUSA) in the Northern District of Ohio.

Taking the job as an AUSA was, by Polster's account, the second best decision he ever made. The first best decision was marrying his wife, Deborah Coleman, an accomplished and well-respected lawyer in her own right.

During our discussion of his work as a prosecutor, I asked Polster what he thought of prosecutorial discre-

tion: "If you have a choice between having a prosecutor with very high integrity and a judge with very high integrity, it's more important to have the prosecutor with high integrity." Why? Because "90 percent of what I did as a prosecutor was secret. If things are done confidentially, the only check is the character and integrity of the man and woman doing it." By contrast, "90 percent of what I do as a judge is public."

Although most of his work is open for all to see and often conducted in a courtroom filled with lawyers and members of the public, he confessed that being a judge can be lonely. "There is no lonelier place in the world than sitting on the bench sentencing a person. I often wish I was anywhere in the world but in that chair." But that loneliness is a check on the awesome power he possesses: "The day I can send someone to prison and not feel anything is my last day on the job."

One way Polster combats the loneliness is by staying active in the community. He is probably the most involved judge in Cleveland. If he gets an invitation, "my instinct is to say yes." He enjoys getting out, meeting with students, interacting with lawyers outside the courtroom, and speaking with members of the public. Part of his motivation stems from his desire for people to see federal judges, not as mystical figures, but as ordinary people.

Polster sees himself as the steward of his office, and hopes to pass on to the next generation a judicial system better than the one he inherited. Now in his 18th year on the job, he can recall his fair share of failures and successes. One of the cases he considers a highlight was the Amish beard-cutting case.

Members of a breakaway Amish sect committed a series of attacks on other Amish with whom they'd had religious disagreements. The U.S. attorney brought charges under the Federal Hate Crimes Prevention Act. This high-profile case garnered international media attention. Polster was the first judge in the nation to try a case under this new statute. He faced many challenges, including vexing legal issues, such as whether the statute was a constitutional exercise of Congress's interstate commerce powers and whether intrareligious violence can ever qualify as a hate crime. One of his greatest concerns, however, was making sure the trial didn't become a spectacle: "I am very glad I had that case in my 15th year as a judge. I couldn't have handled it very well as a rookie judge."

Polster remembers being a rookie, including his first day on the job. He took the oath at 9 a.m., attended a judges' meeting, and went back to his empty office. He had no staff and a stack of 30 cases. He opened the first

file: employment discrimination. He knew nothing about that area of law, so he set the file aside. He turned to the next one: patent infringement. Same problem. The next case involved ERISA; he didn't know what ERISA was. The fourth case was even more problematic: trial started in a month. Polster became panic stricken and thought to himself, "Suppose I can't do this job. I just took an oath two hours ago to do it for life. I can't go back now. I can't undo my oath." So he took a deep breath and decided he'd better start learning.

Learning came easy; he just asked a lot of questions at case conferences. He also remembered what his wife told him years earlier. Coleman was a civil litigator and handled several major cases. Every once in a while, after the parties reached an impasse, she'd remark to her husband, "If the judge on this case had only spent one hour with us, the case would've settled." Polster took the message to heart. During the case conferences, in between asking questions, he'd offer a few ideas of his own. To his amazement, the litigants and lawyers listened, and he soon found himself settling cases. Now, 18 years into the job, Polster has a reputation, both locally and nationally, as a remarkably effective mediator. He is often asked by his colleagues to mediate their cases.

I observed Polster mediate several cases during the two years I served as his law clerk. I watched him sit down with a small-business owner in a trademark

infringement case, with the spouse of a man who was shot dead by the police officers he'd called for help, and with landowners whose mineral rights had been seized through the power of eminent domain. These individuals were not excited to be in federal court. As Polster noted, "I never met a client that wanted to be written up in a *Federal Reporter* to be talked about in law school. They've got a problem and they want to get back to their lives and business; they don't want to be in court." But these individuals felt aggrieved and wanted to tell their story. For them, the opportunity to sit down with a federal judge was a big deal. This was their day in court. Sometimes it took an entire day—sometimes multiple days and often late into the night—to resolve the case. But Polster did not give up and did not take a pass, though he could have. The time and attention he devoted to the parties must have given them a sense of worth. Indeed, for these ordinary individuals, the experience must have felt extraordinary.

It's little wonder that Polster finds mediating cases the most satisfying part of his job. But, as satisfying as he finds his work as a federal judge, what makes him proudest and happiest are his three children: Josh, who is a lawyer in New York City; Shira, who is pursuing a Ph.D. in mathematics; and Ilana, who recently graduated from Princeton. ☺



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