

Judicial Profile

SCOTT BRATTON

Hon. Gary W. Smith Assistant Chief Immigration Judge

WITH NEARLY 30 years of active federal commissioned service in the Army Judge Advocate General's (JAG) Corps, and after holding various assignments—including chief circuit judge for the Second Judicial Circuit in the Southeast for the Army Trial Judiciary from 2002 to 2005, and, more recently, an immigration judge in San Francisco in 2005—Judge Gary W. Smith is well-qualified for his current job as assistant chief immigration judge.

Judge Smith credits his development as a dedicated jurist to his parents, both hardworking people who grew up in rural South Carolina. Judge Smith's father worked on a farm and in a textile mill, served as a state highway patrolman, and worked for more than 20 years in the pulpwood industry. In 1940, the judge's father enlisted in the Army Air Corps and was posted at Wheeler Field in Hawaii when the attack on Pearl Harbor occurred. Judge Smith's mother worked at a bomb factory during World War II.

Judge Smith is thankful to both of his parents for their support when he was a young boy and for their encouragement in his many different endeavors, such as spelling bees, American Legion Boys State, Cub and Boy Scouts, and the like. As a child, he even won the county spelling bee twice and competed in the state spelling bee. He acknowledges his parents' moral support during his college years at the University of South Carolina College of Business Administration and during law school while he worked his way through school, taking several jobs at the same time—an effort that allowed Judge Smith to pay all his college and law school expenses and to graduate without debt.

Before entering law school at the University of South Carolina School of Law, Judge Smith went through basic combat training and advanced individual training at Fort Knox as an enlisted soldier; he also served as a noncommissioned officer and an officer in the Army National Guard. After law school and admission to the bar, Judge Smith entered the active Army JAG Corps,

where he served for 30 years.

Since his grandparents and parents were successes in life and in service to our country, Judge Smith wanted to follow their example. He always tries to place himself in the place of the people with whom he deals; he is a good listener and desires to treat people as he would want to be treated. This personal mantra of his has helped him as an attorney, military judge, immigration judge, and supervisory judge.

Judge Smith's best experience as a young attorney was his service in the Army JAG Corps. He spent his first six years prosecuting and defending individuals in courts-martial in the United States, South Korea, and Germany. After seven years, he became a trial judge and was then able to serve for 12 of the next 22 years as a military judge. He served as a circuit judge, chief circuit judge, Army chief trial judge, and staff judge advocate. Criminal trial practice in the military gives judges the opportunity to try both bench trials and trials with servicemembers, the latter of which are similar to jury trials and require the judge to give instructions. In the JAG Corps, Judge Smith dealt with a variety of offenses—military offenses, typical criminal offenses, felony offenses, and offenses occurring during wartime.

Judge Smith is fond of the high standard of excellence in the U.S. military, in which all servicemembers accept their peers as highly competent professionals. He is proud of the level of competence and dedication of military officers and noncommissioned officers in all branches not just in the legal field. Judge Smith states, "The military leaders you see on television and in the newspaper could succeed in any role, and they do. When I go to a medical appointment at Walter Reed Army Medical Center, I see service men and women who have lost a limb or limbs and yet you can see that they still are optimistic and value the honor of serving or having served—they are real heroes, and they are my heroes."

Judge Smith considers our soldiers, sailors, airmen, Marines, and Coast Guard members as the best people our country has produced. "Their selfless service and sense of duty are why the Services continue to be the most respected institution in our country," he says. He considers his service in the military as a great honor, and he has a sense of guilt for leaving, because the military services instill in the men and women who

serve, including JAGs, a dedication and will to tackle any kind of issue or problem, and the services set a high bar for integrity, ethics, and leadership. He acknowledges that the military is made up of a mixture of people from all backgrounds who have to live and work together. He credits this experience with allowing him to quickly learn to work with others and learning the importance of self-discipline.

Judge Smith and his wife, Carmen, have been married for nearly 30 years and have three sons: Jon-Michael, Nicholas, and Jason. The three spent their childhoods in Frankfurt and Heidelberg, Germany; Vicenza, Italy; Texas; Virginia; and Georgia. Judge Smith once had an opportunity to attend a school field trip with his son to the site of Juliet's balcony in Verona, Italy, and states that he had much more fun than his son's third-grade class did.

Judge Smith has several mentors that he holds dear to his heart, including his mother, who instilled in him a strong work ethic. The judge's mother, who was an avid reader, attended business college. She had a huge heart and made his family of six feel rich, even though, materially, his family had just enough to make ends meet. Judge Smith's father, another mentor, was part of what the judge considers the "greatest generation" and was a person who lived to work. Judge Smith's trial advocacy teacher, Terrell Glenn, was a practicing attorney in Columbia, S.C., who mentored him and affirmed his desire to become a trial lawyer. The judge also considers many other people—too many to mention, he says—to be mentors from his time at the JAG Corps and as an immigration judge. He credits his mentors with teaching him how to be a better lawyer, judge, and person and says his mentors in the immigration corps have been very helpful and fun to learn under and to work with.

"Being an assistant chief immigration judge is a very tough job," he says. There are more than 200 immigration judges across the country; they hear cases that are referred to them by the Department of Homeland Security. An immigration judge must determine whether an individual immigrant is subject to removal from the United States, and if so, whether there is any relief available to the person, such as asylum, withholding of removal, cancellation of removal, or adjustment of status. Last year, immigration judges handled approximately 300,000 immigration matters nationwide.

Judge Smith's position as assistant chief immigration judge requires him to oversee, supervise, and direct the activities of the immigration courts in his region, which currently includes Arlington, Va., Atlanta, Boston, Cleveland, Hartford, Conn., Philadelphia, and York, Pa. His office provides overall direction for the program, articulates policies and procedures, and establishes priorities for immigration judges within the region. Judge Smith has multiple courts within his jurisdiction, which, until recently, included San Diego. Judge Smith also oversees and supervises the new immigration court that opened in Cleveland this past

September.

Because of the variety of issues that immigration judges face daily, Judge Smith considers becoming an immigration judge and learning immigration law a challenge. "You can be addressing a compelling situation in one country in the morning and equally compelling situations in other countries the same day," he states. "The rewarding parts of the role include opportunities to work with talented government and private bar counsel, to have a tremendous reservoir of talent and collegiality in the immigration judge corps, and to work in a fascinating area of the law." Judge Smith understands the rewards and challenges of immigration law for all those who work in and practice before the nation's immigration courts.

Judge Smith has credited many of those around him with instilling in him the remarkable qualities that have made him the well-respected judge he is today. Given his outstanding reputation and the sincerity and professionalism he exhibits on a daily basis, it is likely that, one day in the near future, another distinguished legal professional will be crediting Judge Smith for his mentoring skills. **TFL**

Scott Bratton, a partner with Margaret Wong & Associates in Cleveland, practices immigration law in courts throughout the United States.