

## Judicial Profile

GREGORY B. MAULDIN

# Hon. Gerald Bard Tjoflat U.S. Circuit Judge, U.S. Court of Appeals for the Eleventh Circuit

FIRST APPOINTED TO the bench in 1968, Judge Gerald Tjoflat has brought extraordinary energy, enthusiasm, and grit to the judiciary for more than 40 years. Still going strong at the age of 80, Judge Tjoflat ranks as the longest-serving active judge on the federal courts of appeal, having served on the Eleventh Circuit (and former Fifth Circuit) since 1975. His unyielding exuberance and dedication to justice has set a remarkable standard for generations of lawyers and judges alike.



Gerald Bard Tjoflat is the son of a Chilean mother and second-generation Norwegian immigrant father, who met while both were studying at the University of Wisconsin. After Tjoflat's parents married and moved to Pittsburgh, Pa., where Tjoflat's father took a job as an electrical engineer, they had five children in an eight-year period. Judge Tjoflat, their eldest child, was born Dec. 6, 1929.

Growing up during the Great Depression, Judge Tjoflat experienced many of the tough times common to that era, including loss of the family home. To help the family survive, for many summers Tjoflat traveled alone to Wisconsin, where he worked on dairy farms owned by his Norwegian relatives and friends. Over the years, his job responsibilities varied as he grew in size and strength, but the jobs were always difficult and the days long. Nevertheless, this experience taught him the importance of friends and family working together.

When back at home, during his free time Tjoflat focused on baseball, one of his lifelong passions. His pitching talent eventually led to an offer from the Cincinnati Reds. He worked out with the team one summer but turned down their offer, because he would have had to break up his schooling. Instead, he accepted a partial baseball scholarship to attend the University of Virginia, where he played for two seasons. After his second year at Virginia, however, limited

family finances demanded that Tjoflat leave behind his baseball playing days as well as the University of Virginia. He moved with his family to Cincinnati, Ohio, and enrolled at the University of Cincinnati.

Tjoflat performed well at Cincinnati; he was president of his fraternity and eventually decided to start law school there in 1951. At the end of the first semester of law school, however, on Christmas Eve 1951, mere weeks before his first exams were to start, Tjoflat received his "Greetings" letter from the President of the United States, informing Tjoflat that he had been drafted by the U.S. Army. The letter demanded that he report on Jan. 15, 1952, the same day law school exams were to commence. Tjoflat failed to persuade the Army to delay his reporting date, so he forewent his law school exams and reported as required for 16 weeks of basic training.

Although Tjoflat was born with club feet—a genetic disorder that causes deformity of the feet and, at the time, required radical surgery to fix—he chose not to disclose his condition to the Army and proceeded to Infantry Rifleman Replacement basic training. At the conclusion of his basic training, the Army placed Tjoflat in its counterintelligence school and assigned him to the western part of Virginia. For approximately two years, Tjoflat—or "Mr. Agent," as the neighborhood kids called him—conducted background investigations and regularly interviewed residents in western

Virginia. The upshot of this investigative work was that it became second nature for Tjoflat to question people who were reluctant to talk about the subject of an investigation and proved an incredible training ground for the practice of law.

At the end of his two-year stint in the Army, Tjoflat picked up where he had left off in law school and took the exams he was supposed to take at the end of his first semester with the first-year class that was two years behind him. He went on to complete his first year at Cincinnati but after that opted to transfer to Duke University Law School, where he met Sarah Marie Pffol, a star student and rising senior in Duke's undergraduate program. The two of them dated and, after Tjoflat finished law school in 1957, they married and decided to move to Jacksonville, Fla., a city that was new to both of them.

Tjoflat spent the next 10 years in private practice, working on all kinds of litigation, including white-collar crime, antitrust, insurance, tax, and labor matters. He never thought about going on the bench, but a series of events conspired to make that happen. One of those key events occurred when he first arrived in Florida and went to register to vote. The registrar handed him the Democratic Party application, and, when Tjoflat asked whether there was another party in Florida, she replied, "Well, Mr. Tjoflat, do you want to vote in the elections, because if you don't register as a Democrat, you don't vote except in the general elections for president." Tjoflat had grown up a Taft Republican and opted to register as a Republican despite the registrar's warnings.

Although he was not involved in politics, over the years it became generally known that Tjoflat was one of the few Republicans in Jacksonville. In 1968, politics started to shift in Florida, and, for the first time since Reconstruction, voters elected a Republican governor, even though the local Jacksonville politics remained decidedly Democratic. A few months later, a judge in the Fourth Judicial Circuit of Florida died of a gunshot wound, creating a mid-term judicial vacancy in Jacksonville. The governor asked Tjoflat if he wanted the position. Even though Tjoflat was certain his tenure as a judge would last only until the following election in the fall, he agreed to go on the bench and was sworn in as a state circuit judge on June 18, 1968.

When the following election season arrived, Tjoflat had no money and did not campaign or try to use political influence to keep his job. Nonetheless, much to Tjoflat's surprise, no candidate from either party ran against him and he won his election virtually by default, allowing him to continue his service as a state circuit judge. In 1970, Congress created a federal judgeship for the Middle District of Florida. Judge Tjoflat was sponsored for the opening and, on Oct. 16, 1970, after a brief Senate hearing, he was confirmed to be a district judge. The entire confirmation process lasted approximately two hours.

Barely a few months after being confirmed as a

district Judge, Tjoflat was assigned one of the most controversial cases in the history of Florida, *Mims v. Duval County School Board*. The U.S. Supreme Court had just issued its latest school desegregation decision, which required Tjoflat to dismantle by "root and branch" racial segregation of schools in Jacksonville and Duval County; by this time, both had become one entity, making Jacksonville one of the largest cities in the United States. Tjoflat immersed himself in the case, holding numerous public hearings, visiting every school in the school system, reviewing a multitude of desegregation plans, and overlooking the regular threats to his wife and two children, which resulted in the assignment of U.S. marshals to protecting his family around-the-clock.

After providing ample opportunity for concerned citizens to be heard, Tjoflat issued his desegregation plan. He also took the aggressive measure of issuing an injunction that held anyone in criminal contempt for interfering with implementation of the plan. Although rioting did break out in one school—resulting in one person (not a student) being jailed and prosecuted for contempt—emotions cooled and the desegregation of Jacksonville schools proceeded peacefully. Tjoflat credits the peaceful desegregation in part to the fact that Jacksonville's citizens perceived that they had been fairly heard on the matter; after all, the perception of due process is often just as important as, or more important than, the outcome of a case.

Tjoflat's service as a district judge lasted five years and was mostly tranquil after the conclusion of *Mims*. In 1975, President Gerald Ford nominated Tjoflat to sit on the Fifth Circuit. The confirmation process was again extremely informal, lasting less than an hour, and Tjoflat was elevated to the Fifth Circuit on Nov. 3, 1975. He later opted to move to the new Eleventh Circuit when it was created as a result of splitting the old Fifth Circuit on Oct. 1, 1981. Despite the elevation, Tjoflat did not lose his desire to try cases. Indeed, for years he continued to accept invitations to return to the district courts of the circuit to try difficult cases.

Judge Tjoflat has been an active member of the appellate court system for nearly 34 years and has written approximately 4,000 opinions. Even though there have been many key moments and cases over that time, none is more important or sad than the assassination of Judge Robert Vance, his colleague on the Eleventh Circuit. On Dec. 15, 1989, soon after Tjoflat was installed as chief judge of the Eleventh Circuit, a shoebox wrapped in brown paper and containing the return address of a colleague was delivered by mail to Judge Vance's home. When Judge Vance opened the package, a pipe bomb loaded with nails detonated and killed Vance instantly and severely injured Vance's wife. Judge Tjoflat was at home preparing to leave for a Christmas party when he received word of the bomb that had killed Vance. Fearful that other bombs had been mailed, Tjoflat, the U.S. Marshal's Office, and the FBI worked feverishly through the night to contact the

remaining members of the Eleventh Circuit.

The following Monday, three additional bombs were received in offices in the Southeast: one at the Eleventh Circuit's clerk's office in Atlanta, another at the NAACP office in Jacksonville, and a third at a lawyer's office in Savannah (that exploded and killed the lawyer). Members of the Eleventh Circuit also began to receive threatening letters bragging about the murder of Judge Vance. The bombs and letters resulted in numerous federal agencies and state prosecutors descending on the Southeast to investigate the crimes.

Judge Tjoflat threw himself into the fray. He quickly implemented security measures to protect the courthouse and its occupants and realized that the various investigators needed a coordinator and leader. He asked then U.S. Attorney General Richard Thornburgh to appoint the best federal prosecutor in the United States to the case, and former FBI Deputy Director Louis Freeh was assigned. Freeh and Tjoflat worked closely together to resolve the case. The perpetrator, Leroy Moody, was eventually caught and convicted. As Freeh observed with respect to the important role Judge Tjoflat played in handling the affair, "Judge Tjoflat was as fine an investigator as he was a jurist. His insights, logical analysis and pure 'gut' instinct manifested itself and proved him to be one of the most competent investigators I have ever observed. ... [I]t was [Tjoflat who took charge of the crisis management and led the Eleventh Circuit, as well as the entire legal community, with the utmost courage, dignity and resolve. It was great demonstration of true leadership and grace under pressure."

Judge Tjoflat's entire tenure on the Eleventh Circuit hasn't been quite as hectic or strenuous as the events surrounding Judge Vance's assassination, but Tjoflat is no less committed to his job after all these years. As pointed out by Judge Larry Edmondson, Judge Tjoflat's colleague and former chief judge, "Judge Tjoflat has been a federal judge for 40 years but still maintains an extraordinary interest in and enthusiasm for the law and the cases that come before him. His high energy is legendary. He provides an excellent example to other judges."

Judge Tjoflat also sets a marvelous example for his law clerks, which now number 146 in total. He invariably works on weekends and works longer hours than his clerks do. He also spends countless hours teaching clerks to dig into cases. The teaching never stops. One lesson all clerks learn quickly is the necessity of employing what former clerk and current Middle District of Florida Judge Corrigan calls "fierce independence of thought and decision-making." Judge Tjoflat also exhorts clerks to assess cases without any prejudgment about how a case should come about. As Judge Corrigan explains, "The thing I carried with me from Judge Tjoflat the most, and which has benefited me as lawyer and judge, is the absolute requirement that you never pre-judge a legal problem. You must always start with basics and work your way up, and by doing

so you eventually arrive at a considered decision."

It doesn't take long for Judge Tjoflat's clerks to realize how fortunate they are to work for the judge. He clearly cares for his clerks, regularly inviting them to his home and eating lunch daily with them at one of his favorite spots. According to Peter Dearing, a former clerk and current Florida circuit judge, Judge Tjoflat treats "all of his clerks as if they were part of his family." The care shown for his clerks has also been noted by Katherine Bartlett, the former dean of Duke University Law School: "[Judge Tjoflat] is well known ... as the judge who takes extraordinary interest in his clerks—interest in the development of their careers, in their moral compass and professional values, and in what they have to give back to their communities." Thus it is not surprising that Judge Tjoflat's former clerks have collected a set of funds to endow the Gerald Bard Tjoflat scholarship at Duke Law School, the first of which was awarded in 2008.

Duke Law School is one of Judge Tjoflat's passions. He is a founding member of Duke Law School's board of directors and is regarded as the board's most active "life member"; he drives eight hours each way for two meetings each year. He has been awarded Duke's Charles S. Murphy Award, which is presented to an alumnus "whose devotion to the common welfare is manifested in public service or in dedication to education." He also has been instrumental in creating "Duke's Blueprint for Leadership and Professional Development." As explained by Katherine Bartlett, "To a significant extent it is because of Judge Tjoflat's tireless advocacy and advice that Duke Law School ... has developed an extraordinary culture of community and professionalism that reaches into every area of the [s]chool."

There are two other community endeavors that are particularly blessed by Judge Tjoflat's tremendous energy. The first is the Episcopal Diocese of Florida. As the Right Reverend Samuel Johnson Howard stated in praise of Tjoflat: "There have been many, many occasions in which Judge Tjoflat has encouraged and counseled me through key events in the life of this diocese. He has spent a lot of hours assisting me. Tjoflat has been loyal and faithful to his church and God." In recognition of his decades of services rendered to the Episcopal Church, in 2008, Judge Tjoflat was awarded the Bishop's Cross Award, the highest honor given for service and dedication to the Episcopal Diocese of Florida.

A second community organization that particularly benefits from the judge's involvement is the Boy Scouts of America. From 1975 through 1984 and again in 2000–2001, Judge Tjoflat was president of the North Florida Council of the Boy Scouts of America. He believes strongly that the Boy Scouts' values transfer program is fundamental to the positive development of young men as well as the prevention of delinquency among them. It is therefore no coincidence that Jack Sears, the head of the Boy Scouts' North Florida Council, considers Judge Tjoflat to be

“North Florida’s greatest champion for boy scouting.” As Sears explained in extolling Judge Tjoflat, “he has worked tirelessly to create partnerships and to attract resources to increase the number of young people involved in scouting.”

There are numerous other areas in which Judge Tjoflat has provided hugely significant contributions to society, certainly justifying his selection in 1996 as a rare recipient of the prestigious Fordham-Stein Prize, which is given to individuals “whose work exemplifies outstanding standards of professional conduct, promotes the advancement of justice, and brings credit to the profession by emphasizing in the public mind the contributions of lawyers to our society and to our democratic system of government.” To name a few of Tjoflat’s additional contributions:

- From 1973 to 1987, Tjoflat was a member and, beginning in 1978, the chairman of the Judicial Conference of the United States Committee on the Administration of the Probation System, which oversees the performance of the nation’s probation and parole officers and communicates to Congress—through testimony before the House and Senate Committees on the Judiciary—the views of the federal courts on matters of crime and punishment.
- From 1975 to 1987, Tjoflat was a member of the Advisory Corrections Council of the United States, which is charged with overseeing the operation of the federal prison system.
- In 1980 and 1985, Tjoflat served as a member of the U.S. delegation to the Sixth and Seventh United Nations Congresses for the Prevention of Crime and Treatment of Offenders.

Also noteworthy, and no less significant, is Tjoflat’s hand in building approximately 17 federal courthouses in the Southeast, including the beautiful federal building and courthouse in Jacksonville.

Judge Tjoflat turned 80 this year. His first wife, Sarah, passed away from cancer in 1997, and—whether because of good genes, annual access to a new crop of young clerks, or his marvelous second wife, Marcia Parker (a prominent real estate attorney)—Tjoflat is still going strong. Indeed, he has not lost an iota of his lively exuberance, which for many friends and colleagues makes Tjoflat, in the words of Judge Edmondson, “truly a character and fun to know.” Or, as longtime colleague and former Eleventh Circuit Chief Judge Lanier Anderson observes, “Anybody who has met [Judge Tjoflat] just loves him.” **TFL**

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Judge Tjoflat enjoying lunch with his clerks.