

Judicial Profile

BETTY H. RICHARDSON

Hon. B. Lynn Winmill Chief U.S. District Judge, District of Idaho

IDAHO'S CHIEF U.S. DISTRICT JUDGE, B. Lynn Winmill, may be one of the few judges who has both sentenced a guilty man to death and taken an innocent man off death row. Those two decisions reflect an inner congruity, which stems from the judge's upbringing, and they say a lot about the man who leads Idaho's federal court system.

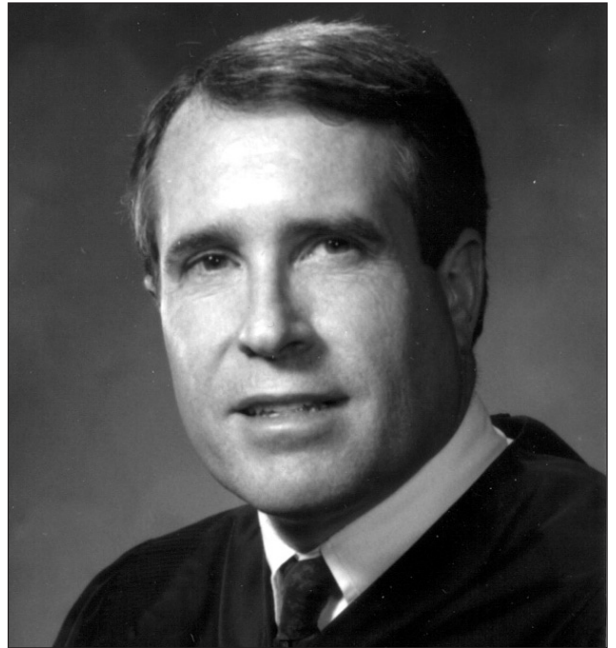
An Idaho native, Judge Winmill was born in Blackfoot, Idaho, during a springtime blizzard in 1952. Raised on a dairy farm, he learned the value of hard work from his father, who helped shape his character. Like his father, who died when Judge Winmill was only 21 years old, the judge has met life's many challenges with optimism, confidence, and the highest standard of integrity.

A top scholar, Judge Winmill demonstrated strong advocacy skills at Snake River High School, where he was a student leader and a star debater. It was also in high school that Judge Winmill met the love of his life, Judy, to whom he has been married for 34 years. After high school, Judge Winmill enrolled at Idaho State University in Pocatello, where he began preparing for a career in medicine.

Judge Winmill's career path changed, however, when he was doing research for a paper on Clarence Darrow for his English 101 class. Inspired by Darrow, Judge Winmill began studying the lives of other lawyers. He found heroes aplenty in Adams, Jefferson, and Hamilton, who provided the nation's governing framework; Lincoln, who steered the country as it weathered the Civil War; and Charles Hamilton Houston, Thurgood Marshall, and Jack Greenberg, who helped liberate the nation from segregation.

Impressed by the many ways in which members of the bar have improved our society and motivated by a strong desire to contribute to the public good, Judge Winmill decided to pursue a career in law. He spent the next seven years working to attain that goal, managing to serve as student body president at Idaho State and to graduate with high honors before enrolling in Harvard Law School.

In 1987, the former governor of Idaho, Cecil Andrus, appointed Judge Winmill to the bench of Idaho's Sixth District Court. By then, Judge Winmill had become a very successful attorney, having practiced first



in Colorado, then in Idaho. One of Judge Winmill's mentors in legal practice was Don Burnett. A former judge on the Idaho Court of Appeals and now dean of the University of Idaho's College of Law, Burnett taught Judge Winmill that every client—big or small, rich or poor, lofty or humble—deserves first-quality legal advice and representation.

Upon taking the bench, Judge Winmill echoed Burnett's philosophy, writing that "... it is critical every litigant, including those whose cases arise in obscurity, receives the same careful, thoughtful, and reflective attention of the presiding judge." To underscore the point, Judge Winmill often refers to *Gideon's Trumpet*, the landmark book written by Anthony Lewis that told the story of Clarence Earl Gideon, an impoverished defendant who established an indigent's constitutional right to counsel. Judge Winmill instructs his law clerks to note the lesson of *Gideon*—every case is important, no matter what its origins may be.

From 1992 to 1995, Judge Winmill served as administrative district judge for Idaho's Sixth Judicial District and chaired the Idaho Supreme Court's Evidence Rules Committee. Both experiences provided excellent preparation for the demanding administrative work required in his current position.

Appointed a U.S. district judge by President Clinton on Aug. 14, 1995, Judge Winmill readily understood

that serving as a federal judge in Idaho presented challenges unique to the district. At almost 83,000 square miles, the district encompasses the entire state, the 13th largest in the nation. The district has three judicial divisions, and federal court is held in Boise and as far away as Coeur d'Alene and Moscow in the northern panhandle and Pocatello in southeastern Idaho, near the Utah border. Frequent travel is required, and Judge Winmill routinely divides his time between his chambers in Boise and Pocatello, spending two weeks every month in each locale.

The district also takes in five Indian reservations and two major federal facilities—the Idaho National Laboratory and Mountain Home Air Force Base. The district also has almost 53,000 square miles of federal-ly owned or managed land—the third highest percent of any state in the nation. Moreover, Idaho is one of the fastest-growing states, consistently ranking among the top five in population growth.

Despite its geographical size, rapid population growth, extensive Indian country, and substantial federal land holdings, the district has only two district judges and two magistrate judges available to handle an extremely heavy—and burgeoning—federal caseload. Chief Judge Winmill has worked hard to meet the district's needs by stretching resources, seeking innovative solutions, and inspiring teamwork.

Applying the lessons of his youth, Judge Winmill leads by example and has a prodigious work ethic. Indeed, it is something of an understatement to say that he enjoys trials. Only half joking, Judge Winmill's career law clerk Dave Metcalf reports that the judge bursts into chambers each morning, asking, "What are we going to try today?" Indeed, he is seldom happier than when heading into a jury trial that includes good counsel. Lawyers appreciate the fact that Judge Winmill lets them try their own cases. Recalling his own litigation experience, when he disliked judges interjecting themselves too much into trials, Judge Winmill stays in the background but exerts strong control to ensure that justice is served.

Judge Winmill expects zealous advocacy, and he feels at the top of his game when the attorneys are at the top of theirs. He is quick to point out that he was appointed as a "trial" judge, not an "appellate" judge, or a "motions" judge, or a "sit-in-chambers-and-read-and-write" judge. As it happens, however, Judge Winmill is a skilled writer who places a premium on clarity and transparency in his opinions. As Metcalf notes, "The judge works to describe in honest detail how he arrived at a result." Indeed, Winmill's mantra could be characterized in this manner: "While I lose no sleep when attorneys disagree with my decision, I suffer insomnia if they cannot understand how I reached that result."

Judge Winmill believes that it is important for ordinary citizens to understand how the law works and what the judiciary does. He observes that an informed citizenry is essential to maintaining judicial indepen-

dence and enhancing public confidence in the law. As a young lawyer, and while on the state bench, Judge Winmill was a frequent and popular speaker at Continuing Legal Education programs and Law Day events. Since taking the federal bench, Judge Winmill has given widely acclaimed talks on a myriad of topics, including the importance of respecting civil rights, the lasting lessons to be learned from *Brown v. Board of Education*, and the need for civility in our public discourse.

Perhaps Judge Winmill's most significant public outreach involves his teaching at the Citizens' Law Academy, a 12-week course sponsored by the Idaho State Bar's Public Information Committee and designed to give ordinary citizens an up-close and in-depth look at the justice system. For more than a decade, Judge Winmill has been speaking to the attendants at the academy about sentencing, taking them through a hypothetical child molestation case to illustrate the hard choices that a judge must make. His goal is to prevent a rush to judgment and to demonstrate that most cases require a real struggle to seek a just sentence.

Judge Winmill's public presentations are also noteworthy for their candor. He does not hesitate to discuss the ways in which he thinks about difficult legal problems. Indeed, prosecutors and defense counsel alike commend Judge Winmill's willingness to comment on his approach to even the most complex matters, including capital cases. Judge Winmill willingly explains, for example, the wrenching personal experience he went through when, as a state court judge, he sentenced a defendant to death for brutally killing a young girl while she was delivering newspapers.

Similarly, Judge Winmill frequently discusses the case of Charles Fain, a man who spent 18 years on death row for a crime he did not commit. In a federal habeas corpus proceeding, Judge Winmill ordered a new type of DNA testing that had not previously been available. The new DNA tests refuted the main piece of evidence used against Fain, who was eventually exonerated and released.

Charles Fain has now been out of prison for many years, and he often accompanies Judge Winmill to speaking engagements to provide his unique perspective on the death penalty—surprisingly, he favors it and is remarkably free from bitterness. Judge Winmill's presentations with Fain and his attorney, Fred Hoopes, provide a special insight into the death penalty. Now that the Supreme Court has held that only juries—not judges—can impose the death penalty, Judge Winmill believes that it is even more critical for members of the public, those who will decide whether or not to impose the ultimate penalty, to have as complete a perspective as possible.

In addition to his compelling public presentations, Judge Winmill's law-related activities have been many and varied. He has served as adjunct faculty at Idaho State University and as a member of the Board of Visitors of the J. Reuben Clark Law School, where he has

also volunteered as a moot court judge. Judge Winmill has also judged moot court competitions for the University of Idaho's College of Law and served as an instructor for the university's course in trial advocacy.

Judge Winmill has demonstrated vision and leadership by founding and building organizations that preserve Idaho's legal heritage, promote professionalism, improve communications between the bench and the bar, and foster collegiality. Most notably, Judge Winmill initiated formation of the Idaho Chapter of the Federal Bar Association, which has developed outstanding federal practice training programs and publishes an award-winning newsletter.

Last year, Judge Winmill co-founded the Idaho Legal History Society, which has begun an extensive oral history project, taping interviews with senior members of the Idaho bench and bar. Earlier this year, the society sponsored an original play, *The Gate on 16th Avenue*, written and produced by Mike Silva in association with Boise Little Theater. The production commemorated the 100-year anniversary of the trial of labor leader Big Bill Haywood for the murder for hire of former Idaho Governor Steunenberg. In its day, the case was known as the "trial of the century," bringing together such legal legends as Clarence Darrow and William Borah.

Judge Winmill not only recognizes the importance of preserving our legal history but is also committed to building on that heritage and implementing new technology. He understands that computerized legal research, electronic filing, and evidence presentation systems are an integral part of a modern legal practice and critical to the efficient and timely administration of justice. Judge Winmill currently serves as a member of the Information Technology Committee of the Judicial Conference of the United States; the committee provides general policy recommendations, planning, and oversight of the judiciary information technology program. He recently served as a member of the Ninth Circuit Judicial Council and as chair of the Council of the Ninth Circuit Chief District Judges.

In all his endeavors, Judge Winmill is quick to publicly acknowledge the contributions of others, especially the hard work of his chief of staff, Susie Boring-Headlee, whose energy, dedication, and ability are well-known throughout the Ninth Circuit.

In addition to his numerous law-related activities, Judge Winmill has been involved in the larger community as a scoutmaster for the Boy Scouts of America and a member of the board of the Idaho Humanities Council.

In light of his unflagging commitment to public service, it is no surprise that Judge Winmill has received numerous awards for his contributions to the legal profession as well as the community at large. His awards include the 1995 Professional Achievement Award presented by the Idaho State University Alumni Association; the 2000 Statesman of the Year Award given by Pi Sigma Alpha, Idaho State University's po-

litical science honor fraternity; and the 2004 Advocate Award for Best Article from the Idaho State Bar. In 2006, Judge Winmill became the youngest member of the Idaho State Bar to receive its Distinguished Lawyer award, and that same year he was named one of the 500 leading judges in the United States.

Judge Winmill and his wife Judy have four grown children and four grandchildren: Kristen Southwick, who lives in Singapore with her husband, Brady, and their three children—Clair, Eliza, and Ben; Jeff, who is currently studying at the George Washington University Law School; Caitlin Mulcock, who lives in New York City with her husband, Jeffrey; and Carley Tanner, who lives in Provo, Utah, with her husband, Jonathan, and their one child—Abigale. For the Winmills, raising their children and witnessing their growth into well-rounded, caring, and successful adults have been a source of immense pride and joy. One has only to overhear Judge Winmill visiting with his grandchildren on the telephone to know where his priorities lie. Indeed, the most important and satisfying aspect of his life has been his role as husband, father, and grandfather.

Fortunately, however, Judge Winmill's family members are not the only ones who can be proud of him. The family of that poor newspaper carrier, whose life was cut off before she even had a chance to live it, can be equally proud, as can the family of Charles Fain, imprisoned for so many years for a crime he didn't commit. Certainly, the families of all those whose lives intersect with the federal bench can be proud of Judge Winmill, as can the many Idahoans he has urged to carefully ponder the awesome power of the law and the ways in which it can be used or abused—especially as it pertains to the ultimate penalty society can inflict. **TFL**

Betty H. Richardson was appointed U.S. attorney for the District of Idaho by President Clinton in 1993 and served in that position until 2001. A charter member of the FBA's Idaho Chapter, she has been a law clerk to Judge Winmill and is currently of counsel with Richardson & O'Leary PLLC in Boise, Idaho. She may be contacted at betty@richardsonandoleary.com.