



Hon. Julius Ness "Jay" Richardson

Circuit Judge, U.S. Court of Appeals for the Fourth Circuit

by Jim May



Jim May is an assistant U.S. attorney and senior litigation counsel for the U.S. Attorney's Office for the District of South Carolina. He investigated and prosecuted cases with Judge Richardson for seven years. Before becoming a federal prosecutor, he was a county public defender. He attended Vanderbilt University for undergraduate and graduate school, where he anchored the offensive line at left guard for 41 games. He attended the University of South Carolina Law School.

On June 17, 2015, a young white man walked into the historic Mother Emanuel African Methodist Episcopal Church in downtown Charleston, S.C. He was welcomed by the Pastor Clementa Pinckney and the other African Americans in Bible study that Wednesday evening. The young man sat with them for 45 minutes until they started to pray. As they bowed their heads, Dylann Roof pulled out his .45 caliber pistol and shot 88 times, killing Reverend Pinckney and eight others and leaving only three survivors. Not only did the murderer's intent to start a race riot fail, but his heinous crimes also brought together a strong community in shock, grief, and love. But that was only the beginning of justice for the victims and their families.

Julius N. "Jay" Richardson had been a prosecutor for only seven years when he led the prosecution of Dylann Roof. The investigation led to only the third federal death penalty prosecution in South Carolina since the post-*Furman* ban and Judge Richardson's first such case. The experience was consuming for more than a year—all of America was a victim, and President Obama came to Charleston to give the eulogy. All 12 victims had beautiful stories of the lives they were living when the ultimate tragedy struck. Judge Richardson immersed himself in each of their lives, spending hundreds of hours with each family and ultimately telling their stories to the jury through hundreds of exhibits and more than 30 witnesses during the sentencing phase of the trial. Judge Richardson claimed the victims of the Mother Emanuel tragedy were "the very best among us and were killed because of that."

Judge Richardson also recognized that he had to try to understand the evil and racist hatred of "someone who would sit in a Bible study for forty-five minutes while they studied the parable of the sower and then during prayer at the end stand up and execute nine parishioners at close range." Nevertheless, as a federal prosecutor, Judge Richardson wanted to ensure that due process and reason drove the result in this case too: "Despite the divergence in virtue between those two groups of people, the rule of law still applied. Even though the defendant in that case



was on one end of the virtue spectrum, the rule of law still applied to him equally."

The families and community needed healing and received some of their relief through Judge Richardson's work in preparing and trying the case. U.S. Senator Tim Scott (R-S.C.) introduced Judge Richardson at his Senate Judiciary confirmation hearing in June 2018 by praising his efforts in bringing Roof to justice:

I cannot begin to explain to this committee the loss and the pain that my community endured in the wake of that horrific event, but watching that same community come together to heal with love, forgiveness, and grace was one of the most profound moments in our state's history. An important part of the healing process for the families of the victims was bringing Dylann Roof to justice and in many ways we do have Jay to thank for that.

Jennifer Pinckney, the widow of the late Reverend Pinckney, wrote a letter in support of Judge Richardson's nomination, which was shared on the U.S. Senate floor just before his confirmation vote. She lifted him up as one of the most important people to their

family and the other victims in the wake of that terrible tragedy—and not just because Judge Richardson was able to provide the lion’s roar for justice in that case, but also because “I have seen Jay walk the path of righteousness and live a life, both personally and professionally, that we can be proud of and that we should hold up as the model of God’s teachings ... you can rest assured you will not be given the opportunity to confirm a person more compassionate, caring, and committed to justice than Jay Richardson.”

At the Investiture for Judge Richardson in December 2018, the benediction was given by one of his four young daughters:

Dear God, thank you for this day and for the work you have given us to do. Thank you for making my daddy a judge. I hope he is a strong one. I pray that what we have done here today is pleasing to you. Please be with my daddy and grant him the wisdom he needs to do his job well. Bless all the judges on this Court and in our country. Father, send us out into the world to love and to serve you. Let us rejoice and be glad. Amen.”

Earlier, to begin the ceremony, his oldest daughter recited verse eight in chapter six of Micah as guidance. There is no doubt the work of the Dylann Roof case strengthened Judge Richardson’s faith and the faith in our system of justice.

Before appointment to the Fourth Circuit, Judge Richardson served as deputy criminal chief of the U.S. Attorney’s Office for the District of South Carolina. “Briefly your honor” was a common refrain heard from Judge Richardson before he stood to elucidate courtrooms. During his 10 years as a prosecutor, Judge Richardson handled several other high-profile cases, including the public corruption case of a 42-year sheriff of conservative Lexington County, an MS-13 murder for hire, and the first major criminal RICO case in South Carolina and against Hell’s Angels since the 1970s. He was also involved in numerous other investigations and cases involving terrorism, gangs, narcotics, public corruption, civil rights, crimes against children, and violent crimes.

Being a federal prosecutor was the best job Judge Richardson says he ever had. And the job has some stiff competition, as he has worked at the star-studded Four Seasons Resort in Maui; clerked for two of the most prominent federal judges in the past 50 years; worked on the prestigious civil trial teams of Kellogg, Hansen, Todd, Figel & Frederick, PLLC; and now has lifetime tenure as a federal appellate judge. Judge Richardson attributes his love of the job to the incredible opportunities he had as a line prosecutor. It was also a job his mentor and former boss, the late Chief Justice William J. Rehnquist, urged on him because it is where many of the cases on the Supreme Court’s docket originate.

Judge Richardson regularly speaks at Federalist

Society law school chapters. One recent talk, “The Federal Prosecutor in System of Separation of Powers,” could not be more timely. He cited Chief Justice Robert Jackson’s famous description of federal prosecutors and detailed the risks of prosecutorial abuses, noting first, as then-Attorney General Robert Jackson did, that a “prosecutor has more control over life, liberty, and reputation than any other person in America.”¹

Judge Richardson’s more recent experience as federal prosecutor and his standing gave a credible reminder to all prosecutors that their internal virtues must be restrained by our system of separated powers. Judge Richardson concluded with the timeless observation of the fundamental need for our most powerful institutions to comprise good men and women. And, consistent with that, Judge Richardson served well as a federal prosecutor and now as one of the newest Fourth Circuit judges who is likely to be there for decades.

Judge Richardson approaches everything he does in the law with a rigor, intelligence, and thoughtfulness; that includes freely sharing his talents with everyone he meets. That’s who he’s always been, and it’s a part of what makes him exceptional. During his investiture, Deputy Assistant Attorney General James Burnham recounted how Judge Richardson, as a prosecutor in the summer of 2018, demonstrated his tirelessness and commitment to justice. They were to try a criminal jury trial in South Carolina the same month as Judge Richardson’s Senate Judiciary Committee hearing and were in the office working every day and late into the night preparing for trial. In that process and under those circumstances, as Burnham described: “it became very clear to me what I’d always known, had really then seen firsthand, which was Jay’s deep commitment to justice, justice on behalf of the victim in our case, justice for the defendant in our case, and justice in doing—executing his role as a federal prosecutor. It was incredible.”

Another participant in Judge Richardson’s investiture is one of his closest friends, Principal Deputy Solicitor General Jeff Wall. Wall, who graduated from the University of Chicago School of Law with Judge Richardson, shared that Judge Richardson recognizes that he does not have all the answers. Often, they would have discussions that strayed outside of the law on topics ranging from foreign relations to the demise of the I formation in football. Wall would find out later that Judge Richardson had, after the conversation, gone to read up on the subject and came back armed with a sort of quasi-expert knowledge of the field, long after he had forgotten the conversation in the first place. Wall quipped: “He has never let facts get in the way of a story, but he will let them get in the way of an argument.” Wall appreciates that Judge Richardson has strong principles but says “when it comes to applying those principles in the context of cases, he will have an open mind, he will listen, and he will not be persuaded by the too-easy answer.” And Judge Richardson is not afraid to say or do a thing simply because it is not popular or common.

Judge Richardson was born in the small, rural farming community of Barnwell, S.C. His paternal grandfather was a farmer, and the other, his namesake, was chief justice of the South Carolina Supreme Court. His father is a humble but unsurpassed trial lawyer, still working out of his office in Barnwell, and has played central roles in some of the biggest litigation in South Carolina and beyond. His mother was a librarian and was greatly involved in raising her three children. Their strong examples taught him the great responsibility to always have the desire to do our best for ourselves and in service to others.

As part of his experiences growing up in Barnwell, Judge Richardson's family had a parade of pets, including dogs, cats, horses, goats, chickens, and, at one point, a couple of turkeys that were given as a fee for some legal work his father did for someone who could not otherwise pay. In addition to helping care for this zoo, Judge Richardson had a green thumb and, from a very young age, planted a garden. Out behind the barn, he tended okra, tomatoes, and butternut squash. Judge Richardson learned the importance of hard work and the law of the farm from his grandfather and his own experience planting a garden behind his family's barn.

In high school, Judge Richardson worked hard and played hard too. He excelled and was a country boy at heart. In fact, one of Judge Richardson's most faithful companions in high school was Betsy, his beat-up old pickup truck that he could drive over just about anything ... and he tried. Judge Richardson was a leader on the football field, according to his high school coach. And as many Southern boys, he has his own Friday night lights story about making an open-field tackle on the goal line against a running back who would become Clemson's leading rusher for 10 years and was later drafted into the NFL. Judge Richardson was trusted as the punt returner and played both ways as receiver and cornerback. He also spent his high school career as the number one seed on the tennis team and as the sweeper on the soccer team during the same spring season. Despite his success in school and sports, Judge Richardson did not let his academics and athletics keep him from hunting and fishing.

At his investiture, Judge Richardson recognized he was given extraordinary shoulders on which to stand, and that some of his earliest memories included listening to legal discussions while sitting on the lap of his grandfather, Chief Justice Julius B. "Bubba" Ness. Judge Richardson also said he strives to live up to the example of "hard work, intellectual curiosity and devotion to the law" set by his father, Terry, whom he described as the finest attorney he had known. He called his brother, Matthew, an "outstanding attorney and my closest friend and confidant" and said his doctor sister Katy's "deep caring for others sets an incredibly high bar to which I have always aspired." While there were many others, he said, "I most owe credit for all those things that are good about me and blame for none of the bad to my mother Gail who has simply devoted her life to me." Judge Richardson

considers his confidence, intellectual curiosity, and hard work the greatest attributes imbued by his parents' example and teaching.

Judge Richardson headed to Nashville for college. It was at Vanderbilt that he met and married the love of his life, Macon. Macon also graduated from the University of Chicago Law School and practiced in Washington, D.C., before they started a family. Judge Richardson thanked his wife for not only putting up with his commitment to his professional career but, more importantly, also giving him their four daughters, all under 12 years of age.

Although he recounted his family and friends as his greatest blessings, he also recognized the immense influence and guidance he received from Judge Posner's intellectual curiosity, deep insight, and belief in the value of rigorous debate. His year with Chief Justice Rehnquist was the justice's last year, and part of it was spent working out of the late chief justice's home. That provided a challenging and unique experience that ultimately led him home to South Carolina with Rehnquist's encouragement. Judge Richardson loved being a prosecutor and a trial lawyer, and he lamented that his future would likely never find him in the well of a courtroom and talking to juries. Judge Richardson also said he would miss working with agents and other trial attorneys and staff, and particularly visiting with the families of victims.

He closed his investiture with this commitment: "To the guy in the glass that I see in the mirror each day, I pledge to live by today's oath, to fully engage in that deliberative process with my colleagues, and to never abandon the rule of law, not for an ill-defined sense of fairness, not for any predetermined preference for an outcome or a party, and certainly, I pledge, not out of laziness."

In his short time on the bench, Judge Richardson has lived up to that pledge. The months that Judge Richardson prepares for oral arguments are evident where he asks counsel "to help him understand" the precise question that goes to the heart of the issue. His diligence is further seen in his written opinions that cite from children's books to ancient texts that most do not know exist.

At 43 years of age ... the next 43 should be equally as exciting. ☺

Endnote

¹Robert H. Jackson, U.S. Attorney General, The Federal Prosecutor, Address at Conference of United States Attorneys (April 1, 1940), *in* 24 J. AM. JUD. SOC'Y 18 (1940); 31 J. CRIM. L. 3 (1940), <https://www.roberthjackson.org/speech-and-writing/the-federal-prosecutor/>.