



# Hon. John E. Jones III

## Judge, U.S. District Court for the Middle District of Pennsylvania

by Matthew M. Haar



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**W**hen you enter the Chambers of Judge John E. Jones III in Harrisburg, Pa., you are greeted by a number of framed articles about the judge, including some from his investiture in 2002. One article refers to him as a “son of anthracite” in reference to his home in and connection to the coal region of Pennsylvania. It is a reference to an old industry, appropriate in light of Judge Jones’ connections to the region, but also ironic because of his prominence as a federal jurist handling some of the most current and interesting issues of our day.

Judge Jones was born and raised in Schuylkill County, Pa., which is a rural community northeast of the state capital of Harrisburg. Growing up, he was greatly influenced by his father, who was not an attorney, but was a well-read businessman who encouraged Jones to read and write from a young age.<sup>1</sup> Judge Jones stayed in central Pennsylvania for higher education, graduating from Dickinson College and the then-independent Dickinson School of Law (now part of Penn State). Judge Jones was drawn to the legal profession as a way to make a difference and to make an impact through public service.

After graduating from law school, Judge Jones returned to his hometown, first clerking for the president judge of the Court of Common Pleas of Schuylkill County, Hon. Guy A. Bowe. In 1983, he entered private practice in the firm Dolbin & Cori, shortly thereafter changed to Dolbin, Cori & Jones. In 1986, he opened his own practice, John Jones & Associates. As a practicing attorney, Judge Jones had a wide variety of experiences, including serving as a part-time assistant county public defender and as solicitor for several municipalities. To this day, Judge Jones and his wife of almost 40 years, Beth Ann, continue to make their home in Pottsville, Schuylkill County, enjoying time as proud parents and grandparents.

Judge Jones also found success outside the practice of law, including being active in politics during his entire 22 years of practice. His political career included serving in 1994-1995 as the co-chair of the transition team of Pennsylvania Gov. Tom Ridge, who would go on to become the country’s first secretary of



homeland security. Judge Jones knew Ridge (a fellow Dickinson Law alumnus) from well before his time as governor, and to this day considers Ridge a mentor and role model. From 1995 to 2002, in addition to practicing law, Jones served as the chairman of the Pennsylvania Liquor Control Board, during which time he confronted the perennially thorny (and ongoing to this day) issue of whether to privatize Pennsylvania’s state-owned liquor stores.

Judge Jones was nominated to the bench by President George W. Bush in February 2002, and was unanimously confirmed by the U.S. Senate on July 30, 2002. From his experience in county and state courts and municipal and state government, Judge Jones sees the significance of courts on all levels, but he especially sees the great reward of working in the federal courts to address issues of national impact.

Judge Jones’ perhaps most noteworthy decision to date came just a few short years after being confirmed, when he handled the high-profile bench trial in the matter of *Kitzmiller v. Dover Area School District*,<sup>2</sup> also known as the “intelligent design” trial. In *Kitzmiller*, Judge Jones held that a central Pennsylvania school district violated the U.S. Constitution by attempting to teach “intelligent design,” or “ID,” in science classes as an alternative to Darwin’s theory of

evolution. In a detailed and thorough opinion developed following weeks of testimony, Judge Jones explained why the school district's statement on intelligent design undermined students' education in evolutionary theory in favor of what Judge Jones concluded was a blatantly religious, nonscientific alternative favored by the district.<sup>3</sup> Still a relatively new judge, Jones spoke boldly about the actions of some of the parties, for example stating that "the citizens of the Dover area were poorly served by the members of the board who voted for the ID policy. It is ironic that several of these individuals, who so staunchly and proudly tout their religious convictions in public, would time and again lie to cover their tracks and disguise the real purpose behind the ID policy."<sup>4</sup> Similarly, he observed "this case came to us as the result of the activism of an ill-informed faction on a school board, aided by a national public-interest law firm eager to find a constitutional test case on ID, who in combination drove the board to adopt an imprudent and ultimately unconstitutional policy."<sup>5</sup> Judge Jones' decision clearly reflected his experience gained through years of trial and municipal practice and in the political realm.

Judge Jones' handling of the *Kitzmiller* case drew international attention and was featured in the two-hour "Nova" special "Judgment Day: Intelligent Design on Trial," televised nationally by PBS. Judge Jones also appeared to discuss the decision on "Today" on NBC, the "NewsHour" on PBS, C-SPAN's "America & the Courts," CNN, Al Jazeera America, and the Pennsylvania Cable Network. Many high-profile political commentators, such as Bill O'Reilly and Ann Coulter, weighed in on Judge Jones' handling of the case.

As reflected in his thoughtful public discussion of the *Kitzmiller* case following his decision, Judge Jones breaks the mold when it comes to appearing in the media to discuss matters that have come before him or matters impacting the judiciary. While acknowledging that some other judges may cringe at the prospect of a judge discussing in the media matters that have come before them, Judge Jones believes that judges should play a role in educating both the public and the media in legal issues, which hopefully leads to a more enlightened discussion in society. Discussing issues in the media is clearly not suited to all judges, but before taking the bench Judge Jones had the benefit of more than two decades in a political career, in addition to experience as a trial attorney and municipal lawyer. To the extent that a position as a district judge with media experience presents a "bully pulpit," Judge Jones consistently displays a willingness to carefully discuss issues related to the judiciary with the media, in academic settings, and with public and civic groups.

Judge Jones also sees his position as an ideal platform to address what he views as one of the most important issues confronting the legal profession specifically and society generally—civility. In a "road rage" culture, leaders must be a clear example of the behaviors that they expect and hope to see trickle down to society.

Related to the concept of judges publicly discussing cases and issues, Judge Jones acknowledges concern that the public often perceives judges as rooting for one "team" or the other, often in political issues. The recent confirmations of Supreme Court Justices Neil Gorsuch and Brett Kavanaugh underline the perception of many in the public that judges are readily identifiable through political parties rather than independent. While philosophical issues are of great significance in matters before the Courts of Appeals and the Supreme Court, Judge Jones believes that they are much less important at the district court level, with decisions usually easily guided by precedent once a case is ripe for disposition by a court.

Judge Jones, however, is a student of history in evaluating the current temperature in politics and the practice of law. He believes that the current era is no more brutal and contentious than other times, citing as an example Chief Justice John Marshall's noted criticism in his opinions of certain politicians such as Thomas Jefferson.

Illustrative of his ability to handle politically charged cases in a nonpartisan manner is Judge Jones' decision in the matter of *Whitewood v. Wolf*.<sup>6</sup> In *Whitewood*, Judge Jones struck down as unconstitutional Pennsylvania's provisions in its Domestic Relations Code enacted in 1996 limiting marriage to opposite-sex couples and prohibiting the recognition of same-sex marriages legally entered into in other jurisdictions. Judge Jones' opinion reflects his powerfully direct and focused manner of addressing issues before him. For example, in *Whitewood*, he articulated that "the plaintiff couples are spouses in every sense, except that the laws of the commonwealth prevent them from being recognized as such."<sup>7</sup>

After detailing the very personal nature of the dispute to the plaintiffs, Judge Jones explained his analysis as to why the same-sex prohibitions violated the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution. Judge Jones' concluding passage embodies his commitment to the rule of law, his understanding of both history and current issues, and his belief that there should be more civility in the profession and in society:

We are a better people than what these laws represent, and it is time to discard them into the ash heap of history.<sup>8</sup>

In June 2020, Judge Jones will become chief judge for his district, succeeding his friend, Chief Judge Christopher C. Conner. In addition to his duties on the bench, Judge Jones gives back to both the legal profession and his community. In 2005, the Supreme Court of Pennsylvania appointed Judge Jones to the Pennsylvania Commission on Judicial Independence, and in 2015 he was named co-chair of the Commission by Pennsylvania Chief Justice Thomas Saylor. In 2013, Chief Justice John Roberts appointed Judge Jones to the Committee on Judicial Security, a standing committee of the Judicial Conference of the United States. In 2018, the chief

justice changed Judge Jones' appointment to the Space and Facilities Committee, in part because of a new courthouse being constructed in Harrisburg, Judge Jones' home vicinage. In giving back to the community, Judge Jones serves as the vice president of another alma mater, Mercersburg Academy, chair of the Board of Trustees of Dickinson College, and also as an adjunct professor at Penn State's Dickinson School of Law.

Judge Jones admittedly misses being a lawyer, which

he warmly characterized as "a terrific profession." As the first lawyer in his family, he always enjoyed the give and take of practice. He also remembers fondly his early days in practice where he got to know more senior lawyers and had the privilege of them taking an interest in his development. He is concerned about what he views as growing dissatisfaction within the profession, where practitioners experience what he referred to as "growing apprehension of Monday morning." Judge Jones attributes some of that to how attorneys treat each other, which is often not well. When speaking to groups of lawyers, Judge Jones often decries what he calls "knife fights" and encourages attorneys to ratchet down heated rhetoric. Judge Jones sees a clear role for bar associations such as the Federal Bar Association in helping to set the standard for attorney conduct and fostering a culture of collegiality. He also sees a relationship between the current more heated relationship among attorneys and the noted decline in jury trials and courtroom proceed-

ings. While the loss of courtroom time can be attributed to many factors such as the increased focus on mediation and the increasing cost of litigation, the trend has an impact both on the general level of courtroom skills and attorneys' relationships with one another.

Judge Jones' career, accomplishments, and broad influence on others have been and continue to be well recognized. Judge Jones received an Outstanding Alumni Award from Dickinson Law, as well as an honorary doctorate in law and public policy from Dickinson College. In 2009, the faculty of Dickinson College voted to induct Judge Jones into its Phi Beta Kappa chapter. In May 2006 (on the heels of the *Kitzmiller* decision), Judge Jones was named by *Time* as one of its "Time 100," the 100 most influential people in the world. These honors are all well-deserved recognition for a man who will no doubt use that recognition to further his advocacy for public service, judicial independence, and civility. ☺

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## Endnotes

<sup>1</sup>Judge Jones unfortunately lost his father while in college.

<sup>2</sup>*Kitzmiller v. Dover Area Sch. Dist.*, 400 F. Supp. 2d 707 (M.D. Pa. 2005) (holding that a school district's policy of teaching "intelligent design" as an alternative to Darwin's theory of evolution in high school biology class was an endorsement of religion in violation of the Establishment Clause).

<sup>3</sup>*Kitzmiller*, 400 F. Supp. 2d at 725.

<sup>4</sup>*Id.* at 765.

<sup>5</sup>*Id.*

<sup>6</sup>*Whitewood v. Wolf*, 992 F. Supp. 2d 410 (M.D. Pa. 2014) (holding that the Commonwealth of Pennsylvania's ban on same-sex marriage and nonrecognition of same-sex marriages performed outside of the commonwealth were unconstitutional).

<sup>7</sup>*Whitewood*, 992 F. Supp. 2d at 416.

<sup>8</sup>*Id.* at 431.