

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF ALABAMA

3
4
5 INTERVIEW OF
6 **THE HONORABLE CHARLES S. COODY**
7 Magistrate Judge
8 of the
9 United States District Court
10 For the Middle District of Alabama
11 as a part of the
12 ORAL HISTORY PROJECT
13 of the
14 U.S. DISTRICT COURT
15 MIDDLE DISTRICT OF ALABAMA

16
17 Interviewed by Chief Judge Emily Marks
18 Daughter of Judge Coody and
19 Chief United States District Judge for the
20 Middle District of Alabama
21 Frank M. Johnson, Jr.
22 United States Courthouse Complex
23 One Church Street
24 Montgomery, Alabama
25 March 2, 2022

1 CHIEF JUDGE MARKS: I'm Emily Marks. I'm the Chief
2 United States District Judge here in the Middle District of
3 Alabama. And I have the privilege of interviewing one of our
4 longest serving United States Magistrate Judges, who also
5 happens to be my father.

6 So good morning, Dad.

7 JUDGE COODY: Good morning, Emily.

8 CHIEF JUDGE MARKS: You have been a United States
9 Magistrate Judge in the Middle District of Alabama since 1987.

10 JUDGE COODY: 1987. May 1, 1987.

11 CHIEF JUDGE MARKS: And you have served continuously
12 here.

13 JUDGE COODY: Yes.

14 CHIEF JUDGE MARKS: During that time, you've seen a
15 lot of changes. So we want to just get your thoughts looking
16 back on 35 years --

17 JUDGE COODY: That's right.

18 CHIEF JUDGE MARKS: -- almost of your service to the
19 federal court.

20 But just some background. You have three
21 daughters.

22 JUDGE COODY: Three daughters.

23 CHIEF JUDGE MARKS: I'm the middle.

24 JUDGE COODY: You're the middle.

25 CHIEF JUDGE MARKS: And --

1 JUDGE COODY: You were born when I was in law school.

2 CHIEF JUDGE MARKS: That's right. I'm a native of
3 Tuscaloosa.

4 JUDGE COODY: You are. That's right.

5 CHIEF JUDGE MARKS: And then obviously my -- Christine
6 is your oldest --

7 JUDGE COODY: Is the oldest.

8 CHIEF JUDGE MARKS: -- and is a lawyer in New Orleans
9 and lives in New Orleans. And then my younger sister, Amy --

10 JUDGE COODY: Is Amy. And she's a social worker.
11 She's the only one of you three who, you know, went the
12 straight and narrow path rather than going into law.

13 CHIEF JUDGE MARKS: That's right. She's saving our
14 souls.

15 JUDGE COODY: That's right.

16 CHIEF JUDGE MARKS: And then Mom passed away in
17 2007 --

18 JUDGE COODY: '07, after --

19 CHIEF JUDGE MARKS: -- from breast cancer.

20 JUDGE COODY: -- a five-year fight with breast cancer.

21 CHIEF JUDGE MARKS: And then after that, you found and
22 married Hendon --

23 JUDGE COODY: Hendon.

24 CHIEF JUDGE MARKS: -- Blaylock --

25 JUDGE COODY: Yes.

1 CHIEF JUDGE MARKS: -- in 2009.

2 JUDGE COODY: And we have a blended family. Hendon
3 has a son and a daughter; and they're both married, and married
4 to wonderful people. And together, we have eight
5 grandchildren; seven boys, and just six months ago we got the
6 first little girl.

7 CHIEF JUDGE MARKS: Indeed.

8 JUDGE COODY: She's precious.

9 CHIEF JUDGE MARKS: She is at that.

10 And so just tell us a bit about your background.
11 Where were you born?

12 JUDGE COODY: I was born in Mobile, Alabama, September
13 17, 1946. That's Constitution Day, by the way.

14 CHIEF JUDGE MARKS: Hmm, very good. You were destined
15 for the Federal Bench, I guess?

16 JUDGE COODY: I guess.

17 CHIEF JUDGE MARKS: And how did you, just overall,
18 spend your childhood summers, that type of thing?

19 JUDGE COODY: My grandmother had two cottages at Gulf
20 Shores that she would rent out, and she always saved one of
21 them for the use of the family during the summer months. So I
22 spent a lot of time over there during the summer. She then
23 sold those and bought a house on Mobile Bay, and so we would go
24 over there during the summer months.

25 I always fondly remember I had some friends down

1 there during the summer. And we would get on our bicycles and
2 ride up to the Grand Hotel, and the guards up there would let
3 us go in; and as long as we didn't bother anybody, they'd let
4 us swim in the old swimming pool, which no longer exists, they
5 replaced it. But that was my first and fondest memories of the
6 Grand Hotel in Mobile Bay.

7 CHIEF JUDGE MARKS: What did you want to be when you
8 grew up? Did you think you'd be in the legal profession?

9 JUDGE COODY: No. I wanted to be a doctor. And as
10 we'll talk about later, those ideas evaporated when I found out
11 that I was so colorblind that, looking through slides on a
12 microscope, I could not differentiate between various
13 components of what we were looking at. I mean I'm really badly
14 colorblind in that way.

15 CHIEF JUDGE MARKS: Yeah.

16 JUDGE COODY: So that just wasn't going to work.

17 CHIEF JUDGE MARKS: Sure.

18 JUDGE COODY: So --

19 CHIEF JUDGE MARKS: But justice is blind. So you --

20 JUDGE COODY: That's right. There you go.

21 CHIEF JUDGE MARKS: That's why you do as well as you
22 do.

23 And so you stayed down in the Mobile area for
24 college.

25 JUDGE COODY: I did. I went to Spring Hill College

1 and was on the debate team at Spring Hill College. And that's
2 where I met your mother.

3 CHIEF JUDGE MARKS: You were debate partners.

4 JUDGE COODY: We were debate partners, yeah. We got
5 married after we graduated from college, sort of formalized the
6 relationship of debate partners.

7 CHIEF JUDGE MARKS: Yes. I can attest that the
8 debates never ended.

9 JUDGE COODY: You can attest to that, that's right.

10 CHIEF JUDGE MARKS: And then you were in ROTC.

11 JUDGE COODY: I was in the ROTC, Army ROTC.

12 And, you know, at that time, my plans was to
13 become an Army officer and make that a career. And so I went
14 through that. And right after we got married, went on a
15 honeymoon, I went to Ft. Knox, Kentucky, for training as an
16 armored officer and, after that, went to Fort Hood, Texas,
17 where I was assigned to an armored cavalry that was part of the
18 Second Armored Division, which is now inactive. But that was a
19 great experience out there.

20 We were there -- I got there -- we got there two
21 days before Christmas of 1968. And I was at Fort Hood from
22 1969 until, oh, the summer of 1970 -- maybe October of 1970,
23 when I got orders to go to Vietnam. And first had to go to
24 school at Fort Bragg, and I did that for six weeks. And the
25 first part of the -- the last part of that year, 1970, I flew

1 to Vietnam and served a year in Vietnam as a military advisor
2 in the southern-most province of Vietnam.

3 CHIEF JUDGE MARKS: And how long were you in Vietnam?

4 JUDGE COODY: One year.

5 CHIEF JUDGE MARKS: What was that like?

6 JUDGE COODY: You know, it was interesting being in a
7 different culture. The Vietnamese have a very different
8 approach to life. We would call it laid back. One of their
9 favorite comments is ngày mai, which means tomorrow. And
10 that's the way they sort of approach things, which was very
11 aggravating to those of us who were trying to work with them
12 and help them understand warfare. You know, if we don't get it
13 done today, we'll do it tomorrow. So that was -- that was an
14 eye opener for me. But, you know, you're in wartime, you're in
15 combat not all the time, but a good bit of the time, so you do
16 your job and hope everything comes out all right.

17 CHIEF JUDGE MARKS: And you had planned, you said, to
18 have a career in the military.

19 JUDGE COODY: Yeah, make it a career. But as things
20 happen in life, at the end of 1971, the Army began to downsize
21 because it was clear that Vietnam was coming to an end, and I
22 was one of 2500 captains that got orders to go home, kicked out
23 of the Army, if you will. That's a bad way to phrase it, but
24 we were released from the service.

25 Interestingly enough, during my time in Vietnam,

1 one of my friends was a lawyer; but he wasn't practicing at
2 that time, but he had a law degree. And we used to talk about
3 that, you know, what you're going to do after life -- or after
4 life in Vietnam. And so one of the thoughts that I had was the
5 Army had a program where they would send you to law school if
6 you agreed to practice law with them as a JAG officer. And so
7 that was one of the thoughts that I had about what I was going
8 to do after Vietnam. And then, of course, when I found out I
9 wasn't going to continue in the military, I said, well, I still
10 want to go to law school, so I applied to law schools and got
11 in at the University of Alabama. I didn't do all that great on
12 the LSAT, but I think I was -- I think I got in because I was a
13 veteran coming home.

14 CHIEF JUDGE MARKS: Sure.

15 JUDGE COODY: I don't know that for a fact, but...

16 CHIEF JUDGE MARKS: And at the time that you found out
17 that you were released from the military, how did that -- were
18 you happy, accepting of it, or did you think it was the
19 worst --

20 JUDGE COODY: It was a shock. There was no question
21 about it. You know, in retrospect, it's one of the best things
22 that ever happened. But those are those experiences in life
23 you can look back on with fondness, but not during that period
24 of time. It was very stressful because I had a child and a
25 wife that I had to provide for.

1 CHIEF JUDGE MARKS: So it was serendipitous, but it
2 didn't feel that way at that time.

3 JUDGE COODY: That's right. That's exactly right.

4 CHIEF JUDGE MARKS: So sometimes only with the benefit
5 of hindsight can we see that something that we thought was
6 terrible was actually --

7 JUDGE COODY: Absolutely correct.

8 CHIEF JUDGE MARKS: -- was actually a good thing.

9 And so you got into the University of Alabama for
10 law school, which I'm sure then you had to move your family --

11 JUDGE COODY: Oh, yeah.

12 CHIEF JUDGE MARKS: -- wife and child to Tuscaloosa.

13 JUDGE COODY: To Tuscaloosa.

14 CHIEF JUDGE MARKS: And how old was Christine when you
15 started law school?

16 JUDGE COODY: Let's see. Christine was born in 1969.
17 I started law school in 1972, so she was -- what? -- three
18 years old.

19 CHIEF JUDGE MARKS: Okay. And so when you started at
20 law school, did you have a plan or an idea about what type of
21 work you wanted to do?

22 JUDGE COODY: I had no idea. I think anybody who goes
23 to law school and says, I want to be this kind of lawyer, I
24 want to practice this kind of law, unless they have some
25 experience with it, they really don't know.

1 You know, as time grew on, I became more and more
2 enamored of the idea of doing trial work. I was fortunate
3 enough to meet George "Peaches" Taylor, who was a professor at
4 the law school then, and he accepted me as a research aid for
5 him. So I worked with George. And that was a really good
6 experience. Of course, George is a very good trial lawyer, and
7 so that sort of whetted my appetite for that.

8 CHIEF JUDGE MARKS: And how did you balance law school
9 with having a spouse and a young child and then eventually a
10 child on the way?

11 JUDGE COODY: Well, thank heavens, Michelle, my wife,
12 was a big help in that regard. But, you know, you get up in
13 the morning and you -- the children were young, so they weren't
14 in school, thank heavens. And you get up in the morning, get
15 to the law school, go to your classes, find time during the day
16 to study, and go home at night, spend a few hours playing with
17 the kids, and then study late into the night. You know, I
18 would start studying 8:30 or nine o'clock at night and maybe
19 until midnight. So that's how you balance that.

20 CHIEF JUDGE MARKS: And I was born when you were a 2L.

21 JUDGE COODY: Yes.

22 CHIEF JUDGE MARKS: Correct? So --

23 JUDGE COODY: Yes.

24 CHIEF JUDGE MARKS: That's a lot of work.

25 JUDGE COODY: You were. You were.

1 CHIEF JUDGE MARKS: Going from one to two children is
2 like going from one to ten.

3 JUDGE COODY: Yes. I remember those days when you
4 were born, several of my friends came to the waiting room while
5 I was waiting for you to be born, and they brought pizza, and
6 so we had a pizza party in the waiting room.

7 CHIEF JUDGE MARKS: I remember hearing that.

8 JUDGE COODY: Because in those days, you couldn't go
9 back into the birthing room with your wife.

10 CHIEF JUDGE MARKS: So you ate pizza --

11 JUDGE COODY: We ate pizza, that's right.

12 CHIEF JUDGE MARKS: -- while I was born.

13 JUDGE COODY: Which is probably why you still like
14 pizza.

15 CHIEF JUDGE MARKS: I do love pizza, that's for sure.

16 And tell me about the *Law & Psychology Review*.

17 You're the man when it comes to that, correct? You're the --

18 JUDGE COODY: Well, I was one of the --

19 CHIEF JUDGE MARKS: You're where it all started.

20 JUDGE COODY: I was one of the so-called founding
21 editors of the *Law & Psychology Review*.

22 There was a group of us who were a little bit
23 rebellious, if you will, about the *Alabama Law Review*. You had
24 to write onto the *Alabama Law Review* at that time. And it was,
25 in a way, an unfair practice for students who didn't exactly

1 have the background to be able to do that. And so in
2 conjunction with George Taylor, who helped us a lot, and the
3 dean of the Psychology Department at the University, we
4 developed this idea of having this *Law & Psychology Review*,
5 which was really an untapped resource at the time.

6 So the first edition of the *Law Review* was
7 devoted to the mentally disabled, and all of it related to the
8 *Wyatt versus Stickney* case at that time, the horrible treatment
9 of those young people in Tuscaloosa as a matter of fact.

10 CHIEF JUDGE MARKS: And that case was here in the
11 Middle District.

12 JUDGE COODY: That case was here in the Middle
13 District.

14 CHIEF JUDGE MARKS: With Judge Johnson.

15 JUDGE COODY: With Judge Johnson, yes.

16 So it was really a very interesting time. It was
17 very difficult for us. The only -- the law school gave us an
18 office, if you will. It was a hallway that led from the first
19 floor to the outside. It was about 12-feet wide, and we had
20 desks on either side, and you could squeeze between the desks.
21 And so that was the beginnings.

22 CHIEF JUDGE MARKS: Did you envision that it would
23 still be in existence --

24 JUDGE COODY: No.

25 CHIEF JUDGE MARKS: -- today?

1 JUDGE COODY: No. We had no idea that it would
2 continue.

3 CHIEF JUDGE MARKS: It would take off.

4 I was a member of the *Law & Psychology Review*.

5 JUDGE COODY: I know you were. I know you were.

6 CHIEF JUDGE MARKS: And do you have any mementos from
7 that?

8 JUDGE COODY: I have a plaque that -- I mean, not a
9 plaque. It's a certificate that says I'm a founding editor of
10 the *Law & Psychology Review*.

11 CHIEF JUDGE MARKS: And so how many members -- or how
12 many people founded the *Law & Psychology Review* with you?

13 JUDGE COODY: I think there were maybe eight of us.
14 Not many. You know, we did all the spadework, did all the
15 review of the articles. And, of course, at that time, it was
16 all -- we didn't have computers, so it was all done with, you
17 know, just your --

18 CHIEF JUDGE MARKS: Typewriters.

19 JUDGE COODY: -- typewriters and looking up the
20 citations by hand. So it took a long time.

21 CHIEF JUDGE MARKS: Yeah. And so while you were in
22 law school and you decided you had a preference for doing trial
23 work, did you have a particular area of the law that you liked?
24 Did you have any sort of a plan or idea, or were you just going
25 to go where you got a job?

1 JUDGE COODY: I did not. I really was going to go
2 wherever I got a job.

3 I went through law school in two and a half
4 years. I didn't have any summer clerkships because I went to
5 school during the summer. So I finished law school in December
6 of 1974 even though I was in the class of '75.

7 As it happened, Judge Eric Embry was elected to
8 the Alabama Supreme Court, and his term began in January of
9 '75. And so he was a good friend of George Taylor, and George,
10 he -- Eric was looking for a law clerk, and George recommended
11 me to him. And so my first job out of law school was clerking
12 for Justice Eric Embry on the Alabama Supreme Court.

13 CHIEF JUDGE MARKS: And that took you to Birmingham.

14 JUDGE COODY: That took me to Birmingham. We lived in
15 Birmingham for a year. And when he had to be on the bench here
16 in Montgomery, he would drive to Montgomery with Justice Red
17 Jones and Justice Janie Shores, and I would drive them. That
18 was a really interesting experience sitting in the car with
19 those three people and listening to their stories and listening
20 to their conversation. Very educational.

21 CHIEF JUDGE MARKS: If only you could --

22 JUDGE COODY: That's all I can say about that.

23 CHIEF JUDGE MARKS: If only you could recount those
24 stories.

25 JUDGE COODY: That's right. I'm not sure I could

1 remember most of them, but...

2 CHIEF JUDGE MARKS: That would be the history we would
3 want to recount, I'm sure.

4 JUDGE COODY: Yes. I know it would be. A lot of
5 people would be interested in that.

6 CHIEF JUDGE MARKS: And so then you clerked for the
7 Alabama Supreme Court for a year.

8 JUDGE COODY: For a year.

9 CHIEF JUDGE MARKS: And did you have -- did that hone
10 your idea about the type of law you wanted to practice after
11 that?

12 JUDGE COODY: I wanted -- I really did want to be a --
13 do trial work. That's getting an opportunity to watch lawyers
14 argue to the court and reading transcripts. And that really
15 focused me on doing that type of work. And so --

16 CHIEF JUDGE MARKS: So no interest in transactional
17 work.

18 JUDGE COODY: Absolutely not. Absolutely not.

19 CHIEF JUDGE MARKS: And then how did you make a
20 transition from Judge Embry to practice?

21 JUDGE COODY: Well, again, Judge Embry of course was
22 friends with a number of lawyers, and he was a good friend of
23 Maury Smith here in Montgomery. And Maury's firm at that time
24 was Smith, Bowman, Thagard, Crook & Culpepper, and they were
25 looking for an associate. And again, I was off the regular

1 hiring cycle, but they wanted somebody to come in right away.
2 They had a -- I've forgotten what was going on where they
3 needed a young lawyer, but nonetheless. So my first job after
4 clerking was with that law firm. And I was --

5 CHIEF JUDGE MARKS: Which is the precursor to Balch &
6 Bingham.

7 JUDGE COODY: Yeah. They merged with Balch & Bingham
8 after I left.

9 So I worked for them, did trial work.

10 CHIEF JUDGE MARKS: Back when we tried a lot of court
11 cases.

12 JUDGE COODY: Back when we tried cases, yes. That's
13 right.

14 And that, of course, was interesting, carrying
15 Maury Smith's briefcase, carrying Tommy Thagard's briefcase. I
16 did a lot of work with them. And that's what led to the second
17 stage of my career, which was general counsel to the Department
18 of Education.

19 CHIEF JUDGE MARKS: Well, before you move on to the
20 Department of Education --

21 JUDGE COODY: Okay.

22 CHIEF JUDGE MARKS: -- tell me about trying cases at
23 Smith, Bowman, Thagard, Crook & Culpepper. What were your --
24 did you ever appear in federal court --

25 JUDGE COODY: Oh, yes.

1 CHIEF JUDGE MARKS: -- in front of Judge Johnson
2 particularly?

3 JUDGE COODY: Oh, yes. Judge Johnson appointed me to
4 my first criminal case in federal court. It was a drug case.
5 The police had arrested the defendant. Chased him at night,
6 and he threw a bag of drugs out of the car, and the police
7 stopped and picked it up, and that was the basis of the charge
8 against him. And, of course, I argued, you know, how could you
9 know that was what he threw out of the car and so forth and so
10 on to the jury, but the jury didn't buy that. So...

11 CHIEF JUDGE MARKS: And then with Judge Johnson, did
12 you appear in front of him enough to get the flavor of what it
13 was like to practice in front of Judge Johnson when he was a
14 district judge?

15 JUDGE COODY: I did. When he was a district judge, I
16 did. And what it was like to appear in front of Judge Johnson
17 was you better be prepared and well prepared and know your
18 case. And if you were prepared, there was no problem; if you
19 weren't prepared, all hell would rain on you from him. He did
20 not tolerate unpreparedness or fools gladly.

21 CHIEF JUDGE MARKS: Which makes you a better lawyer.

22 JUDGE COODY: Which makes you a much better lawyer,
23 yes.

24 CHIEF JUDGE MARKS: It can be scary, I guess, to --

25 JUDGE COODY: Yes.

1 CHIEF JUDGE MARKS: -- be in front of someone like
2 that. But at the same time, again, with the benefit of
3 hindsight, it makes you better.

4 JUDGE COODY: Absolutely.

5 CHIEF JUDGE MARKS: And so I know you have some
6 interesting trial stories, and I remember them from you just
7 telling them at home when we were little. But one of my
8 favorite stories is the one about Maury Smith and the box of
9 pencils.

10 JUDGE COODY: Box of pencils.

11 I was in the office one morning, and Maury walks
12 by my door and says, Charles, go grab a box of -- a full box of
13 pencils and come to court with me. And I'm going, Okay. Do
14 you want them sharpened? No. So I went to our little supply
15 room, got a box of pencils --

16 CHIEF JUDGE MARKS: Of unsharpened pencils.

17 JUDGE COODY: -- unsharpened pencils, put them in my
18 briefcase, and off we went to the courthouse.

19 As I recall, it was a criminal case. And so when
20 we got there, Maury got the box of pencils, and he put it right
21 on the edge of the desk. And the trial proceeded. And one of
22 the critical witnesses for the prosecution was on the stand,
23 and the prosecutor asked him this question, and Maury jumps up
24 and objects; and when he did, he knocked the box of pencils on
25 the floor, and they, of course, scattered all over the place.

1 And he, Oh, I'm sorry, I'm sorry. And, you know, I was down
2 and he was down picking up pencils, and everybody was helping
3 him -- helping us pick up the pencils.

4 And so when everything got back to normal and we
5 had all the pencils back in the box, the prosecutor was ready
6 to commence his examination, and he didn't ask that question;
7 he went to the next question. He had his questions written
8 out, so he just apparently skipped over those questions. And
9 that's one of the things --

10 CHIEF JUDGE MARKS: And you saw trial strategy in
11 action.

12 JUDGE COODY: I wouldn't call it trial strategy. I'd
13 call it something else, if I were pressed. But, yeah, Maury
14 was a great trial lawyer, one of the best in this city
15 certainly and probably in the whole state. He had a tremendous
16 way with the juries.

17 CHIEF JUDGE MARKS: And was there ever a time where
18 you may have tried a case with an overcoat on?

19 JUDGE COODY: You know about that.

20 CHIEF JUDGE MARKS: I do.

21 JUDGE COODY: Yeah. It was a domestic relations case.
22 And I met with my client that morning, and she had to go move
23 her car or something, so I told her, Meet me at the courthouse.
24 And I was walking out the door to go to the courthouse, the
25 receptionist said, Mr. Coody, Mr. Coody, your pants are split

1 wide open. And they were. I had ruptured the seam in my
2 trousers. So thank heavens it was wintertime, and I got my
3 overcoat, put it on, headed off to the courthouse. And it was
4 in front of John Davis -- Johnny Davis, who was one of the
5 domestic relations judges. And I told him, I said, This is
6 going to be a little odd, but I've got to try this case in
7 front of you wearing this overcoat. And I told him why, and he
8 laughed. And that was interesting.

9 CHIEF JUDGE MARKS: You tried your case with your coat
10 on.

11 JUDGE COODY: Tried the case with my coat on, that's
12 exactly right.

13 CHIEF JUDGE MARKS: Did you ever tell the jury why you
14 had -- or was there a jury?

15 JUDGE COODY: No.

16 CHIEF JUDGE MARKS: It was just a judge.

17 JUDGE COODY: Not in domestic relations cases, no.

18 CHIEF JUDGE MARKS: And then the Mr. Transmission
19 trial.

20 JUDGE COODY: Yes. Michelle, my wife, was very
21 pregnant, and --

22 CHIEF JUDGE MARKS: With Amy.

23 JUDGE COODY: With Amy.

24 CHIEF JUDGE MARKS: Your third daughter.

25 JUDGE COODY: And she went into labor the day before

1 the case was set for trial. Amy wasn't born until 12:30, one
2 o'clock in the morning, and so I was in the hospital with her
3 until two or three o'clock. I finally was able to leave and go
4 home, got a little bit of sleep. Trial was supposed to start
5 at eight o'clock the next day, so I got up that morning, got to
6 the courthouse bleary eyed. And of course, as normal, the
7 case -- my case was delayed because they hadn't finished the
8 trial in front of us.

9 We started that case -- it was a fraud case
10 against Mr. Transmission, and I was representing
11 Mr. Transmission. We started that case in the afternoon about
12 one o'clock or so. And so when I stood up to address the jury
13 with an opening statement, I told them that if I looked a
14 little bleary eyed, I apologize, but my third child was born
15 last night; it was a little girl, and I was up late in the
16 hospital. And there were several women on the jury, and they
17 go, Awe, how sweet. And so I was able to curry favor with that
18 jury that way. And I won the case, my first jury trial, as a
19 matter of fact.

20 CHIEF JUDGE MARKS: So still balancing family and --

21 JUDGE COODY: That's right.

22 CHIEF JUDGE MARKS: -- work.

23 JUDGE COODY: That's right.

24 CHIEF JUDGE MARKS: And that's what we -- that's what
25 we do.

1 JUDGE COODY: That's what we do. We all do that, yes.

2 CHIEF JUDGE MARKS: And so after you had some time in
3 private practice trying cases, did the actual practice of law
4 underscore your desire to be a litigator?

5 JUDGE COODY: Oh, absolutely. Absolutely.

6 During the time with the private firm, they
7 represented the Alabama Department of Education, Alabama State
8 Board of Education. And this was a period of time when a lot
9 of desegregation cases were going on. It was a period of time
10 when Title 7 cases were being tried.

11 You know, the State is always the target for
12 litigation. And so part of working with the firm was working
13 with the Department of Education. And over time, my practice
14 really involved representing them a good bit of time. I would
15 say probably 60 percent of what I was doing was representing
16 them. And they had cases that had to be litigated, had to be
17 settled.

18 You know, part of being a litigator is learning
19 how to settle cases. And so that became sort of my primary
20 practice, which led to the State Superintendent of Education
21 offering me a job as the general counsel for the department,
22 which did not have, at that time, an in-house lawyer. And they
23 doubled my salary, so it was quite an attractive offer having
24 now had three children. And so --

25 CHIEF JUDGE MARKS: And which is unusual going from

1 private practice to government work --

2 JUDGE COODY: Right.

3 CHIEF JUDGE MARKS: -- and having it actually double
4 your salary.

5 JUDGE COODY: That's right. Because I wasn't a merit
6 system employee, which would have depressed any salary that I
7 had. I was one of the top people in the department who weren't
8 covered by the merit system, so they could pay me that kind of
9 money. And so it was so attractive I couldn't turn it down.

10 And it was a challenge. It was a challenge to
11 start something new; you know, build up a department within a
12 state government. Fortunately, it wasn't as difficult a
13 transition as it might have been if I were just new coming into
14 that because I had worked with pretty much all the people in
15 the department for a long time. So it was a good transition;
16 you know, get an office, hire a secretary, and go to town.

17 CHIEF JUDGE MARKS: So you went from law school and
18 creating a *Law & Psychology Review* to going to the Alabama
19 Department of Education and creating a position there.

20 JUDGE COODY: Yes.

21 CHIEF JUDGE MARKS: So if you didn't find your path,
22 you just blazed it.

23 JUDGE COODY: Well, that's one way to put it. You
24 know, life comes at you in different ways, and you have to be
25 flexible, as they say.

1 CHIEF JUDGE MARKS: True.

2 And so you essentially put together the general
3 counsel for the Department of Education --

4 JUDGE COODY: Yes.

5 CHIEF JUDGE MARKS: -- from scratch.

6 JUDGE COODY: Yes. Had to develop procedures and
7 processes. Spent a lot of time working with the HR people
8 within the department. So it was really -- it was a good
9 challenge, as I said.

10 CHIEF JUDGE MARKS: And so --

11 JUDGE COODY: And some interesting litigation
12 developed over those years.

13 CHIEF JUDGE MARKS: Yes.

14 Like tell us about secular humanism. I remember
15 as a child, I would hear you talk about secular humanism. And
16 I said, What is secular humanism, Daddy? And you went,
17 Exactly.

18 JUDGE COODY: Exactly, that's right. That's right.

19 CHIEF JUDGE MARKS: So tell us about the secular
20 humanism case.

21 JUDGE COODY: The case arose because of a textbook
22 that was a home economics textbook that had a chapter in it on
23 values. And the chapter was related to, you know, be honest,
24 be nice to people, don't steal, and so forth. Well, a group of
25 individuals who have a different view about teaching values

1 filed a lawsuit claiming that the teaching of values in the
2 absence of reference to a deity, to God, was the civil religion
3 of secular humanism and so that was teaching religion in the
4 public schools and, of course, under the First Amendment, you
5 can't do that. That was the claim.

6 They filed the case in federal court in Mobile in
7 the Southern District of Alabama, and it was assigned to Judge
8 Brevard Hand, who was a wonderful, wonderful southern
9 gentleman. He'd been on the bench for quite a while. But he
10 had his own personal views about religion, and so it made the
11 case for us very difficult. Judge Hand appointed his own
12 expert -- which he can do under the federal rules -- this man
13 from Florida, who came in and explained in great detail how
14 teaching values without reference to a deity was secular
15 humanism -- the religion of secular humanism.

16 But we tried the case. We had our own experts,
17 and the case was tried. I think we tried it for about three or
18 four days. But it was pretty obvious from Judge Hand's
19 comments during the case -- which was nonjury -- where the
20 trial was going, so even though we were trying the case, we
21 were also preparing for the appeal.

22 Well, at the end of the case, before he entered
23 any final opinion, he preliminary enjoined us from using that
24 textbook. As we proved at trial, because we had a suspicion we
25 were going to have to appeal, the textbook, according to the

1 cycles -- all of the school systems follow kind of a set cycle
2 when they teach particular things. So that section in the
3 textbook had already been taught. It was not being taught
4 anywhere in the state.

5 So we took an immediate appeal from the
6 preliminary injunction. I upset Judge Hand a great deal with
7 the brief that I filed pointing that fact out, but I also
8 referred to his enjoining the use of the textbook as a
9 draconian remedy. He didn't like that term. The Eleventh
10 Circuit, however, apparently did because they very quickly
11 overruled his preliminary injunction. So we won that case.

12 But it was a difficult case; not from the
13 standpoint of trying it, it was a newsworthy case, and the
14 media was all over it. And one of the things that it taught me
15 is how to deal with a high-profile case where you have constant
16 battles with the news people. All the press that's involved in
17 it, it makes it very difficult because it's not part of the
18 case, it's external to the case.

19 CHIEF JUDGE MARKS: Which --

20 JUDGE COODY: Very hard.

21 CHIEF JUDGE MARKS: -- you're somewhat shielded from
22 it a little bit in federal court.

23 JUDGE COODY: You are.

24 MAGISTRATE JUDGE COODY: But --

25 JUDGE COODY: You are a little bit, but not when you

1 represent a public entity. You know, you can't just say, I
2 don't want to talk about it, but you have to say that.

3 CHIEF JUDGE MARKS: And you also had the teacher test
4 case.

5 JUDGE COODY: The teacher testing case. The State
6 Board of Education decided that they wanted to require new
7 teachers to take a test, either a general test if they were
8 elementary school teachers; if they were subject matter
9 teachers teaching history, teaching science, teaching math,
10 that they should pass a test to make sure that they were
11 knowledgeable enough to teach in the schools.

12 The department spent a lot of time and money
13 developing this test. They used a professional test developer,
14 went through a lot of precursors to the test through the test
15 development process. And so the first test was given, and it
16 had tremendous impact on the African-Americans who were trying
17 to get into teacher education.

18 CHIEF JUDGE MARKS: A disparate impact.

19 JUDGE COODY: A disparate impact, yes. The passage
20 rate for nonwhites was like four times less than -- the failure
21 rate was four times less than the passage rate for white
22 students. Really, really bad. And, of course, there was a
23 lawsuit. And that was, again, one of the more difficult cases.

24 I actually brought in David Boyd from Balch
25 Bingham at that time. Dave had been a young lawyer with me at

1 Smith Bowman. And so he and I worked on that case, spent a lot
2 of time with experts, learned a lot of interesting information
3 about testing and the development of tests.

4 Judge Thompson was assigned to the case and let
5 us have a good bit of time to do discovery in the case, but we
6 finally -- I tried to settle the case but was unsuccessful. We
7 tried the case, and we lost. And so we were sent back to the
8 drawing board to develop a test that did not have disparate
9 impact. Ten or so years later the case finally settled along
10 the lines that I had originally suggested.

11 CHIEF JUDGE MARKS: Why not do a decade of work --

12 JUDGE COODY: Well, why not, yeah.

13 CHIEF JUDGE MARKS: -- where you can --

14 JUDGE COODY: That's right. Why not spend all that
15 money.

16 But, again, those were difficult times. I think
17 that we -- I think that that case more than any other case
18 showed the difficulty -- at least showed me the difficulty of
19 dealing with the bureaucratic approach to solving problems.
20 There was always a question about whether or not the test was
21 necessary to begin with. If the teacher education schools at
22 the universities were doing their job, why would there be need
23 for a test? And so it really was more of a political response
24 to perceived problems in education. Education always has the
25 political overlay that is very difficult to deal with.

1 CHIEF JUDGE MARKS: And so you were involved in
2 litigation. And then there's -- obviously, that was complex
3 litigation --

4 JUDGE COODY: Yes.

5 CHIEF JUDGE MARKS: -- and lengthy.

6 Did you have an eye toward wanting to be a judge
7 particularly in the Middle District, which is where you were
8 practicing?

9 MAGISTRATE JUDGE COODY: You know, I think every
10 lawyer thinks about that. And I certainly did. Having the
11 experience over here in the old courthouse practicing in front
12 of Judge Thompson, practicing in front of other judges -- the
13 other judge, Judge Varner, made me really sort of desire to
14 take that approach.

15 There were two magistrate judge positions. Judge
16 Gwaltney had been here for a long time, and I think Judge
17 Dubina was the first to occupy the second position. I think it
18 was a newly created magistrate judge position. And so when it
19 opened up, I applied, a number of other people applied. Judge
20 Dubina was selected as the magistrate judge, and he acted as
21 the magistrate judge for several years until he was appointed
22 to the district court bench. So the position opened up again.
23 I applied again. John Carroll, who was the -- was selected.

24 CHIEF JUDGE MARKS: And he had been at the Southern
25 Poverty Law Center.

1 JUDGE COODY: He had been at the Southern Poverty Law
2 School. He was the dean of the law school in Georgia. So
3 he's -- you know, comparatively, he was much better qualified.
4 I hate to say that. He'll like that.

5 Then Judge Gwaltney retired, and so John came on
6 board in November of '86 -- November, December of '86. Judge
7 Gwaltney retired the next year, and his position opened up.
8 And I applied the third time, and the third time was the charm.

9 CHIEF JUDGE MARKS: Never give up.

10 JUDGE COODY: Never give up, that's exactly right.
11 So --

12 CHIEF JUDGE MARKS: And so how did you find out you
13 had been selected?

14 JUDGE COODY: Judge Hobbs, the chief judge at that
15 time, called me on the phone, and I, you know, answered the
16 phone with some trepidation. He said, Charles, welcome to the
17 court family. And you've heard that phrase before, I know.
18 And this court really is a family. Not all courts are
19 families, but this court really is a family of good people, who
20 are marvelous to work with.

21 CHIEF JUDGE MARKS: I don't know if I ever told you
22 this, but I remember when you got the call. You were sitting
23 at the kitchen table, and you answered the phone. And I heard
24 you answer the phone, and then I saw you, you said -- you went,
25 Yes. And so I asked Mom, What's happening? And she said, Your

1 father is going to be a judge.

2 JUDGE COODY: Judge.

3 CHIEF JUDGE MARKS: So I remember the call myself.

4 JUDGE COODY: Good.

5 CHIEF JUDGE MARKS: And you're right. It is very much
6 a collegial group. I think the Middle District is special in
7 that regard.

8 JUDGE COODY: It is.

9 CHIEF JUDGE MARKS: And at the time that you got the
10 phone call from Judge Hobbs, did you think, This is what I'm
11 going to do for the rest of my life, or did you think about it
12 in that way?

13 JUDGE COODY: You know, I didn't really think about
14 that. You know, this is what I wanted to do. And looking back
15 on the almost 35 years, I've just been perfectly happy. I love
16 the job.

17 CHIEF JUDGE MARKS: And so your early years on the
18 bench, then, it was you and John Carroll.

19 JUDGE COODY: John Carroll. John Carroll.

20 CHIEF JUDGE MARKS: And I know just from being around
21 you and Judge Carroll and then now here that the position of
22 magistrate judge has evolved significantly.

23 JUDGE COODY: We evolved it significantly.

24 When we started out, we were overrun with
25 prisoner cases. At that time, the number of prisoner cases

1 filed each year in this district varied between 900 and there
2 was one year where 1100 of them were filed. And so there was a
3 huge backlog of cases. It just --

4 CHIEF JUDGE MARKS: And most pro se prisoners.

5 JUDGE COODY: All of them were pro se. Yeah, with
6 rare exceptions, all of them were pro se. And they're very
7 difficult to deal with because of that.

8 So one of the first few challenges that we had
9 was working through all those cases. But we did. We got the
10 caseload down to a manageable level and then began to talk
11 about, We're doing very little to help the court in other areas
12 that we are statutorily authorized to do.

13 The only criminal work that we did when I began
14 was the misdemeanor cases that were in the court primarily
15 coming from Maxwell Air Force Base and Ft. Rucker. And they
16 were misdemeanor cases. They were violation notices. People
17 would get speeding tickets and those had to come to federal
18 court. But we wanted to expand our responsibilities, so we
19 began to talk to the district judges about doing that.

20 One of the first areas that we did was doing the
21 preliminary work in felony criminal cases. And magistrate
22 judges are authorized to do that; hold initial appearances,
23 hold suppression hearings. And so we were gradually assigned
24 those kind of duties I guess after we proved that we could
25 handle those matters.

1 Over time, we also were placed on the wheel. The
2 wheel is the process by which cases are assigned to judges. We
3 already were being assigned as magistrate judges on all the
4 civil cases, and we would begin to handle all the civil
5 discovery. So the last thing that was added were consent
6 cases. Under the statutes, parties can consent to a magistrate
7 judge having full authority to try and resolve a case. And so
8 we developed a process by which the parties were notified that
9 they could consent to one of us handling those cases, and that,
10 over time, developed. And I think there's a pretty good
11 consent docket now for the magistrate judges.

12 So it was just a gradual process of increasing
13 and expanding the authority and responsibility of the
14 magistrate judges.

15 CHIEF JUDGE MARKS: And, in fact, this district, I
16 think, was the first federal district in the United States to
17 make full --

18 JUDGE COODY: Full utilization --

19 CHIEF JUDGE MARKS: -- use of the magistrate judges --

20 JUDGE COODY: That's right.

21 CHIEF JUDGE MARKS: -- under the authority of the
22 statute --

23 JUDGE COODY: That's right. One of the --

24 CHIEF JUDGE MARKS: -- Section 636.

25 JUDGE COODY: One of the first, yeah, 28 U.S.C.

1 Section 636.

2 The Magistrate Judges Committee of the Judicial
3 Conference always encouraged full utilization of magistrate
4 judges, and we followed that and were applauded for that.

5 CHIEF JUDGE MARKS: And then reports and
6 recommendations even in nonconsent cases.

7 JUDGE COODY: Right.

8 CHIEF JUDGE MARKS: It is a significant --

9 JUDGE COODY: Yes.

10 CHIEF JUDGE MARKS: -- benefit to the court.

11 JUDGE COODY: One of the benefits that happened -- or
12 one of the good things that happened, 1996, I believe, Congress
13 passed the Prison Litigation Reform Act. Up until that time,
14 prisoners could file pro se and would get a free ride. It
15 didn't cost them anything to file a lawsuit. Under that
16 particular statute, prisoners were required to pay a percentage
17 portion of any money that they had to file their lawsuits.
18 That cut our prisoner filings literally in half. We went from
19 like 950 to 425 in one year, just boom. And so that made it
20 possible for the magistrate judges to do more work.

21 CHIEF JUDGE MARKS: Sure. And then it evolved from us
22 having two magistrate judges --

23 JUDGE COODY: To three.

24 CHIEF JUDGE MARKS: -- to three.

25 JUDGE COODY: Then four.

1 CHIEF JUDGE MARKS: And we now have four.

2 JUDGE COODY: Now have four.

3 And also, this is, I think, one of the only, if
4 not the only, district in the country where the number of
5 magistrate judges exceed the number of authorized district
6 judges. I think we're authorized -- what? -- three district
7 judges right now, and we're authorized four magistrate judges.

8 CHIEF JUDGE MARKS: True.

9 JUDGE COODY: And we continue to get approval for that
10 every year.

11 CHIEF JUDGE MARKS: We do.

12 JUDGE COODY: Every five years. That's the cycle of
13 approvals.

14 CHIEF JUDGE MARKS: And it's largely due to the full
15 utilization of the --

16 JUDGE COODY: I think that's right.

17 CHIEF JUDGE MARKS: -- of the judges as well. And it
18 is -- and, of course, we have had consistent vacancies with the
19 district judges.

20 JUDGE COODY: Yes.

21 CHIEF JUDGE MARKS: So the full utilization and number
22 of magistrate judges has enabled the court to --

23 JUDGE COODY: To function.

24 CHIEF JUDGE MARKS: -- to function and function well,
25 I think.

1 And so then it was you and Judge Carroll, and
2 then we've obviously had Judge Susan Walker.

3 JUDGE COODY: Walker, Judge Vanzetta McPherson, Judge
4 Delores Boyd.

5 CHIEF JUDGE MARKS: And then Terry Moore.

6 JUDGE COODY: Judge Terry Moore, who was a magistrate
7 judge appointed as a district judge in the Southern District,
8 where he is now.

9 CHIEF JUDGE MARKS: Right. And Judge Wallace Capell.

10 JUDGE COODY: Wallace Capell. And who else? Who are
11 we missing?

12 CHIEF JUDGE MARKS: I probably shouldn't have started
13 naming names because I am --

14 JUDGE COODY: I know. Always.

15 CHIEF JUDGE MARKS: -- I'm afraid I have forgotten
16 somebody.

17 And then, of course, now we have Stephen Doyle.

18 JUDGE COODY: Steven Doyle, who came from the U.S.
19 Attorney's Office. And Kelly Pate.

20 CHIEF JUDGE MARKS: And Jerusha Adams.

21 JUDGE COODY: And Jerusha Adams. Jerusha came from
22 the U.S. Attorney's Office. Kelly came from the private
23 practice.

24 CHIEF JUDGE MARKS: Well, Jerusha Adams, Judge Adams,
25 had been at the U.S. Attorney's office and then went to private

1 practice briefly --

2 JUDGE COODY: You're right, she did. I had forgotten
3 that.

4 CHIEF JUDGE MARKS: -- before coming on the bench.

5 JUDGE COODY: One of the interesting things about our
6 particular district is the diversity of the magistrate judges
7 that we've had, both women and people of color. That's always
8 a -- not a requirement, but a desire on the part of the powers
9 that be. The Judicial Conference wants to increase diversity,
10 and we certainly have met that, which, again, I think is
11 another reason why we've been favorably blessed with having
12 four magistrate judges.

13 CHIEF JUDGE MARKS: We have.

14 And you were -- as a part of the magistrate judge
15 duties and work that you perform on behalf of the court, we
16 have the mediation program --

17 JUDGE COODY: Yes.

18 CHIEF JUDGE MARKS: -- here in the Middle District
19 whereby the magistrate judges will mediate a case for the
20 parties free of charge.

21 JUDGE COODY: Free of charge.

22 CHIEF JUDGE MARKS: Which is a huge benefit. I know
23 as a lawyer practicing here in the Middle District, the cost
24 benefit of having a magistrate judge mediate a case was
25 significant as well as enabling the parties to come to the

1 courthouse and talk --

2 JUDGE COODY: Yes.

3 CHIEF JUDGE MARKS: -- to a judge --

4 JUDGE COODY: Yes.

5 CHIEF JUDGE MARKS: -- enabled the feeling of having
6 my day in court even though we were in a mediation.

7 JUDGE COODY: Yes, it did.

8 CHIEF JUDGE MARKS: So how did you view mediations?
9 You have a certain way -- a reputation of being a very good
10 mediator.

11 JUDGE COODY: I enjoyed mediation a lot. It gave you
12 an opportunity, one, to resolve a case, as you pointed out,
13 without a great deal of expense, but it also gave me as a judge
14 an opportunity to talk to not only the lawyers in a nonjudicial
15 setting, where I'm not -- where I don't have the bench
16 interposed between me and the lawyers, it gave me an
17 opportunity to talk to the people, the litigants who were
18 involved in the case, you know, as persons. And that was
19 always an enjoyable aspect of it.

20 You know, there's no pat process to mediation.
21 You have to ensure that the people understand their case. And
22 typically the lawyers have done a good job of explaining both
23 the benefits and the burdens of going to trial, which is
24 always, of course, a danger; you never really know what a jury
25 is going to do. And that's part of the spiel that you have as

1 a mediator. But I think most people are rational. Most people
2 understand the risk, and they understand that compromise is
3 better than the risk that they may face.

4 It's interesting. You never know how mediations
5 are going to develop. There was a lady from Dothan who had a
6 small business, and she had contracted with the telephone
7 company to put an ad in the yellow pages, and for whatever
8 reason, the yellow pages didn't have her ad, and she was very
9 upset about that, and so she sued. And the problem with her
10 lawsuit was damages in that arena are very speculative.

11 So I was talking with her, and she said, well,
12 I've got to have \$30,000. And it occurred to me why that
13 specific figure? What was the driving force behind that? And
14 this is what she said: She was driving -- she said, I was
15 driving up from Dothan and I passed the Cadillac place and
16 there's a red Cadillac on the lot and it's got \$30,000 on the
17 windshield and I want that car.

18 So I got with the defendants, and it just so
19 happened that one of the lawyers on the defense side also
20 represented the Cadillac dealership; and so he was able to work
21 out something with the dealership to get her that car for a lot
22 less than \$30,000, I'm sure.

23 So you just never know what motivates people to
24 want particular sums of money. And a lot of times litigants
25 are able to work these things out themselves.

1 There was a horrible wreck involving two 18
2 wheelers that ran into each other. And so I got the companies
3 together in the mediation. And both sides had their risk
4 people involved, and I had begun talking with them for just
5 maybe five or ten minutes, and one of the risk adjusters said,
6 Judge, can he and I talk? I said, Sure, y'all go ahead. They
7 went in one of the jury rooms that wasn't being used, and 15
8 minutes later they came out and said, Okay, we got a deal. So
9 that was one of the easiest mediations I ever had. I let the
10 parties do it.

11 CHIEF JUDGE MARKS: Yeah. Sometimes you just have to
12 get together --

13 JUDGE COODY: You do.

14 CHIEF JUDGE MARKS: -- in a room.

15 JUDGE COODY: Sometimes you have to get people
16 together, you have to have them talk to each other.

17 CHIEF JUDGE MARKS: Which people don't do as much --

18 JUDGE COODY: No.

19 CHIEF JUDGE MARKS: -- anymore.

20 JUDGE COODY: That's part of the problem with
21 litigation is the lawyers separate people instead of bringing
22 them together. And that's what mediation does, it brings
23 people together.

24 CHIEF JUDGE MARKS: Well, you had some high profile
25 people come through your court. Younger people might not know

1 who F. Lee Bailey is, but he was --

2 JUDGE COODY: A renowned --

3 CHIEF JUDGE MARKS: -- a very well-known lawyer.

4 JUDGE COODY: A well-known criminal lawyer.

5 You know, F. Lee became "Flea" Bailey. And
6 that's well-taken because I had never seen him in person before
7 until he appeared in my courtroom. And he was representing a
8 drug dealer from Miami. And when he walked into the courtroom,
9 I understood why he's -- had the nickname Flea is because he's
10 very short. I'm not sure he even reaches five feet. And
11 sitting on the bench, I had to look over the bench so I could
12 see him.

13 But it was interesting. There was a detention
14 hearing in regards to his client, and apparently the word had
15 gotten around the courthouse that F. Lee Bailey was here. So
16 all the law clerks I think in the building were in the back of
17 the courtroom watching him. And at one point during the
18 argument when he was arguing about his client ought to be
19 released on bond, he said, Judge, it's just four kilos of
20 cocaine. And I couldn't help myself. I had to respond. I
21 said, Mr. Bailey, four kilos of cocaine in Miami may not be a
22 lot, but in Montgomery, it's an awful lot of cocaine.

23 CHIEF JUDGE MARKS: That is, indeed.

24 JUDGE COODY: Yes, indeed.

25 CHIEF JUDGE MARKS: And then I know -- tell me the

1 story about H. Rap Brown was a defendant here.

2 JUDGE COODY: H. Rap Brown had a long history of
3 criminal activity. He was a militant and well-known. He was
4 charged with something -- I don't recall what -- in Atlanta.
5 But he escaped Atlanta and was found in the Middle District
6 here and was arrested by marshals, who always have remarkable
7 capacity for finding people.

8 So when he came in for the initial appearance
9 regarding the charges in Atlanta, I asked him to stand. And I
10 said, Mr. Brown -- you know, I told him why he was here. And
11 he interrupted me and said, Judge, my name is, and he had
12 become a Muslim, and he took a Muslim name. The prosecutors,
13 the marshals refused to call him by that name for whatever
14 reason, but once he told me what that name was, I called him by
15 that name during the rest of the proceeding. And you could see
16 that that small treatment of him made a lot of difference to
17 him as a person.

18 And I use that as an example to say that we deal
19 with some of the worst people who have committed crimes, but
20 they still are human beings. And one of the things that this
21 court must uphold is the notion of equal justice under the law.
22 We must treat people as human beings. We must respect their
23 dignity as a human being. Regardless of what they have done,
24 they still should be treated fairly and equally.

25 And so that little thing that I did, I'll always

1 remember that it brought home to me the necessity to do that.
2 So I felt good about that.

3 CHIEF JUDGE MARKS: Well, in order for there to be
4 respect for the court, we have to show respect to the people
5 who appear here.

6 JUDGE COODY: That's exactly right.

7 CHIEF JUDGE MARKS: And that is a good example of that
8 and a good reminder that people come to court with an
9 expectation --

10 JUDGE COODY: Yes.

11 CHIEF JUDGE MARKS: -- just as much as we have
12 expectations of people who come here.

13 JUDGE COODY: That's right.

14 CHIEF JUDGE MARKS: And that sometimes just treating
15 somebody with respect makes a huge difference.

16 And so you also -- after you came on the bench as
17 a magistrate judge, you did some work on desegregation cases.

18 JUDGE COODY: Oh, yes.

19 CHIEF JUDGE MARKS: And did your experience with the
20 Alabama Department of Education help you in that regard?

21 JUDGE COODY: It did, indeed. *Lee v Macon* was the
22 primary desegregation case in the state regarding the
23 elementary and high schools.

24 At some point, the desegregation cases were
25 divided between the districts so that every district had cases

1 just involving the schools in their district. Most of those
2 cases concluded in the '70s. When I say concluded, so-called
3 terminal orders were issued that required the school boards to
4 desegregate; placed certain responsibilities on the school
5 boards. For example, they were required to seek court approval
6 if they built a school, if they changed districts, changed
7 school lines within their boundaries.

8 Judge Thompson and Judge Albritton were looking
9 at those cases and realized that many of those cases had
10 languished for years. I mean, we're talking late 1990s.
11 Nothing had been done for 20 years in some of these cases and,
12 yet, they were still active, they were still open, they'd never
13 been closed. So we decided -- they decided to begin the
14 process of resolving those cases.

15 To resolve those cases, it requires that a school
16 board seek unitary status; that is -- unitary is the term of
17 art meaning that they have been fully desegregated. That
18 process takes about three years because it requires that they
19 file reports, it requires that they demonstrate as a factual
20 matter that they are no longer discriminating against people of
21 color.

22 The first one of those cases that I began to work
23 on was the Montgomery County School System case, which had been
24 one of the more difficult desegregation cases in the state. As
25 a consequence of that, I spent like two weeks meeting with

1 school board members, talking to them about the advisability of
2 settling these cases.

3 It was a twofold approach. One is you need to
4 accept responsibility for your school system and not have to
5 run to a federal judge every time you want to do something and
6 get approval for what you want to do and what you think is the
7 best approach. And the second approach was, under the law,
8 while that terminal decree existed, if you were sued, you had
9 the responsibility to prove that you didn't discriminate as
10 opposed to the typical case in which the plaintiff would have
11 to prove that they had discriminated. So the burden of proof
12 was on them as long as those orders existed, and that's a very
13 powerful reason to want to settle those cases.

14 So we began the process of working with not only
15 the school boards, but also the plaintiffs' lawyers. And I
16 have to recognize especially the Fred Gray Law Firm. Fred and
17 his sons undertook that process gladly and willingly. And so
18 it was a great example of something that I think is less
19 exigent today in the practice of law; and that is lawyers on
20 both sides recognizing a problem and seeking the solution as
21 opposed to just being at loggerheads all the time.

22 But over time, we worked through all of the
23 cases. All of the cases were eventually resolved by a hearing
24 before either Judge Thompson or before Judge Albritton and
25 orders were entered declaring the systems unitary. There's

1 only one case left now, and I think Judge Watkins has that
2 case. But it was a great experience. But I was helped by my
3 experience in the Department of Education because I understood
4 school law, I understood what boards of education did, and I
5 understood the impact on them.

6 CHIEF JUDGE MARKS: What have been your least favorite
7 aspects of the job? And then along those same lines, you know,
8 threats against federal judges have increased hundreds of
9 percentage points --

10 JUDGE COODY: Hundreds, yes, they have.

11 CHIEF JUDGE MARKS: -- over the last few years.

12 JUDGE COODY: You know, that's not -- in a way, that's
13 not really an aspect of the job; that's just a -- I think
14 that's a situation that exists because of the times in which we
15 live.

16 CHIEF JUDGE MARKS: And, of course, you were on the
17 bench when Judge Vance was --

18 JUDGE COODY: Yes.

19 CHIEF JUDGE MARKS: -- killed.

20 JUDGE COODY: Yes. That was a very difficult time.

21 I know you probably remember --

22 CHIEF JUDGE MARKS: I do.

23 JUDGE COODY: -- his daughter lived and her husband
24 lived --

25 CHIEF JUDGE MARKS: His -- Judge Godbold's --

1 JUDGE COODY: Judge Godbold's. That's right, Judge
2 Godbold's --

3 CHIEF JUDGE MARKS: -- daughter.

4 JUDGE COODY: -- daughter lived across the street from
5 us. And Judge Godbold would often visit with them, especially
6 on the weekends. And during that period of time, he had
7 security from the marshals. Your mother, one Saturday I think
8 it was, made some cookies, and we were going to take cookies
9 and drinks across the street to the marshals. Y'all walked out
10 the front door, and the marshals alerted, and I had to walk out
11 and say, It's okay. And I introduced myself. They didn't know
12 who I was. But those were difficult times.

13 I had worked with Judge Vance when he was still
14 practicing law on an antitrust case. And he was -- he was
15 quite an individual, very much loved.

16 But aside from that -- and that's just part of
17 our life. Again, you can't worry about that. You just have to
18 be cognizant and do the things that you need to do to take care
19 of yourself and your family.

20 But I think the thing that is the least fun in
21 the job is the repetition of the scripts that you have to go
22 through. For example, when you're taking a guilty plea, there
23 really is a set script that you ought to follow because you
24 have to make sure that the requirements of Rule 11 are met.
25 And so when you have three or four guilty pleas set during a

1 day, you're constantly going over the same material. And the
2 reason that's difficult is not because you're having to do it
3 repetitiously, but because you have to make certain that in
4 going through that repetition, that you're cognizant of the
5 individual in front of you to make certain that that person
6 understands what they're doing; they're pleading guilty,
7 understands the consequences of that. And so that's the aspect
8 of judging that I don't like as much.

9 CHIEF JUDGE MARKS: Sure. Well, and, you know, we say
10 we have a script, and it may seem to someone as though that
11 means it's not -- we're not approaching something on an
12 individual basis.

13 JUDGE COODY: That's right.

14 CHIEF JUDGE MARKS: But when we say a script, it's
15 because we want to ensure that we have --

16 JUDGE COODY: We want to make sure -- just like we
17 have an outline of what we're talking about --

18 CHIEF JUDGE MARKS: Right.

19 JUDGE COODY: -- we want to make sure --

20 CHIEF JUDGE MARKS: You don't want to miss anything.

21 JUDGE COODY: -- we want to make sure we don't miss
22 anything. We want to make sure that the requirements of the
23 rule are followed.

24 CHIEF JUDGE MARKS: And the circuit has told us, You
25 have to say --

1 JUDGE COODY: Yes.

2 CHIEF JUDGE MARKS: -- X, Y, and Z or we will send it
3 back to you.

4 JUDGE COODY: Absolutely. Yes.

5 CHIEF JUDGE MARKS: So you don't want to --

6 JUDGE COODY: You don't want that to happen.

7 CHIEF JUDGE MARKS: You don't want to increase the
8 workload of the circuit because you missed something.

9 JUDGE COODY: I would hate to increase the workload of
10 the circuit.

11 CHIEF JUDGE MARKS: And at the same time, you have --
12 like you said, you're taking guilty pleas. You do three in a
13 day, and it feels like you're doing the same thing.

14 JUDGE COODY: Hallelujah.

15 CHIEF JUDGE MARKS: But you do have to remember, for
16 each individual, they've never heard it before --

17 JUDGE COODY: That's right.

18 CHIEF JUDGE MARKS: -- or this is their moment.

19 JUDGE COODY: Absolutely. And again, you have to be
20 cognizant of that individual because this is a serious matter
21 for them individually.

22 CHIEF JUDGE MARKS: Sure. Well, and you don't just
23 serve as a magistrate judge, you have administrative work that
24 you have to do. You were the chief magistrate judge for --

25 JUDGE COODY: I was.

1 CHIEF JUDGE MARKS: -- like seven years.

2 JUDGE COODY: And, you know, that primarily is serving
3 as a liaison between the district judges and the other
4 magistrate judges. And that's just a good experience. But,
5 you know, in that sense --

6 CHIEF JUDGE MARKS: You're not the boss of the other
7 judges when you're --

8 JUDGE COODY: Not the boss of the other judges. So in
9 that sense, you have to practice collegiality as opposed to
10 being a dictatorial judge, which you shouldn't do with your
11 coequals.

12 CHIEF JUDGE MARKS: Exactly.

13 JUDGE COODY: But I've been fortunate to have had some
14 administrative responsibilities. Been appointed to a Judicial
15 Conference Committee.

16 CHIEF JUDGE MARKS: And tell everyone what's the
17 Judicial Conference.

18 JUDGE COODY: The Judicial Conference of the United
19 States is the governing body over the federal courts. It
20 consists of the chief justice, the chief judges of each of the
21 circuits, and then one district judge from each of the
22 circuits. In order to do its work, they have established a
23 number of committees that make recommendations to the Judicial
24 Conference for actions that they should take on various matters
25 that come before the Judicial Conference.

1 The committee that I was appointed to and served
2 on for six years was the Committee on case administration and
3 case management -- Court Administration and Case Management,
4 CACM. And that was very interesting. That committee has the
5 broadest responsibility of any of the committees. The other
6 committees of the Judicial Conference are very focused.
7 There's a rules committee for both the federal and the criminal
8 rules -- the civil rules and the criminal rules, there's a
9 committee on technology, there's a committee on buildings,
10 space management, and a number of other committees.

11 But CACM has the broadest responsibility, and as
12 part of that work, they often had to work with other
13 committees. And so that was very interesting. One of the
14 responsibilities of that committee was the case -- the
15 Electronic Case Management System that the courts use. And I
16 guess we'll get into my work on that, if you want to talk about
17 that.

18 CHIEF JUDGE MARKS: Yeah. Well, how long did you
19 serve on the CACM committee?

20 JUDGE COODY: Six years.

21 CHIEF JUDGE MARKS: And you were the only magistrate
22 judge from --

23 JUDGE COODY: Yes.

24 CHIEF JUDGE MARKS: -- in the country.

25 JUDGE COODY: There's only one magistrate judge on the

1 committee at a time.

2 CHIEF JUDGE MARKS: And through that work on the
3 committee, you actually met as a committee frequently, or you
4 went up --

5 JUDGE COODY: Twice a year.

6 CHIEF JUDGE MARKS: -- to Washington, D.C.

7 JUDGE COODY: Twice a year. And then, you know, there
8 are certain times we'd have phone conferences during the other
9 part of the time.

10 CHIEF JUDGE MARKS: This was before Zoom --

11 JUDGE COODY: Before --

12 CHIEF JUDGE MARKS: -- I guess, so you'd do telephone.

13 JUDGE COODY: Absolutely before Zoom.

14 The briefing book for each of our committee
15 meetings was probably 500 pages long of various matters that
16 came before the committee.

17 CHIEF JUDGE MARKS: Sure.

18 JUDGE COODY: So it was a good bit of work to digest
19 all of that, you know.

20 CHIEF JUDGE MARKS: That's the type of
21 behind-the-scenes work people maybe don't recognize --

22 JUDGE COODY: No. That's right.

23 CHIEF JUDGE MARKS: -- that as judges, we have a
24 responsibility for the administration of the courts.

25 JUDGE COODY: Right. But even before my time on CACM,

1 I worked on the NextGen, the Case Management/Electronic Case
2 File system.

3 CHIEF JUDGE MARKS: Yeah. So the advent of electronic
4 filing in CM/ECF was probably one of the most significant
5 developments in the federal court system in a long time.

6 JUDGE COODY: No question.

7 When I first came on the bench, we had paper
8 files for each case. When I would come to work in the morning,
9 I'd have 30 or 40 files stacked on my desk with motions on top
10 of the file that had to be ruled on.

11 CHIEF JUDGE MARKS: It had been paper filed.

12 JUDGE COODY: It had been paper filed.

13 CHIEF JUDGE MARKS: That was the actual motion.

14 JUDGE COODY: Everything was paper filed. That was
15 the actual piece of paper that a lawyer or a litigant filed.

16 And one of the terrible things about that whole
17 system was different judges would have the same case. So the
18 district judge would have a case, I'd have responsibility for
19 that case, and, of course, the clerk's office had the case
20 file. We used to spend, oh, two or three hours a day hunting
21 files. Where was the file? Who's office was it in? We
22 actually developed a charge-out system so we could figure out
23 who had the file. And it worked sometimes.

24 CHIEF JUDGE MARKS: Which is very inefficient.

25 JUDGE COODY: Very inefficient.

1 So the development of the electronic case file
2 system where you could get on your computer and look at
3 documents that had been filed was really a marvelous change for
4 the system and marvelous -- made our efficiency go up. And so
5 that's --

6 CHIEF JUDGE MARKS: Well, even just as the practicing
7 lawyers, they could file something electronically from their
8 desktop --

9 JUDGE COODY: Right.

10 CHIEF JUDGE MARKS: -- as opposed to --

11 JUDGE COODY: That's right.

12 CHIEF JUDGE MARKS: -- printing it, physically signing
13 it, giving it to a runner, and having the runner drive it over
14 to the courthouse to file it in the clerk's office.

15 JUDGE COODY: Yeah. I didn't think about it in that
16 way as a judge, but you're right, that certainly made the
17 practice of law much more efficient and much less -- consuming
18 money. So...

19 CHIEF JUDGE MARKS: Right.

20 JUDGE COODY: 2009 I was asked to come to Washington
21 to participate in a meeting about the development of the next
22 generation of CM/ECF, Case Management Electronic Case File
23 system.

24 CHIEF JUDGE MARKS: Was that because of your work on
25 the CACM committee, or --

1 JUDGE COODY: No.

2 CHIEF JUDGE MARKS: -- because of your interest in --

3 JUDGE COODY: No. Because of my interest in --

4 CHIEF JUDGE MARKS: -- NextGen?

5 JUDGE COODY: -- in electronics.

6 So a group of us met. Judges, clerks, law
7 clerks, we met at the federal courthouse in D.C., and we were
8 tasked with the idea of what do you -- to express what you
9 liked about the current system, the legacy CM/ECF, and what did
10 you dislike about it. And that was characterized as "Describe
11 the operational pain that you experienced from the use of that
12 system."

13 To make a long story short, the original CM/ECF
14 system was designed primarily to assist the clerk's office. It
15 wasn't designed to assist chambers. There were a few reports
16 that chambers could run, but they were very limited, and they
17 weren't very good. So that was the task that everybody
18 identified, Develop a system that allows judges to manage their
19 cases.

20 You know, one of the unfortunate things that has
21 happened to the federal judiciary over the years is we have
22 become case managers. You know, our job is to resolve cases.
23 But instead of often deciding cases, we simply manage cases to
24 a conclusion that comes about by mediation, that comes about by
25 the lawyers settling their own cases. So because we're trying

1 less cases, we primarily manage cases. You know that we also
2 primarily decide cases, if we decide cases, on the basis of the
3 paper summary judgment process. So managing these cases is a
4 very important part of our work, and the NextGen project was
5 designed to move forward that aspect of it.

6 So after that initial meeting, I was appointed to
7 part of the committee of the NextGen process. And I spent
8 literally years working on the calendar aspect. As you know,
9 the calendar is an extremely important part of the case
10 management process. We have to have our calendar set so that
11 we know what we're doing, when we're doing it. And it's also
12 important for the litigants, the lawyers. And the idea was to
13 develop an electronic calendar that would facilitate the work
14 that we do. Unfortunately, over time, it became obvious that
15 that part of the CM/ECF system simply wasn't going to function.
16 There wasn't an electronic -- there wasn't software that
17 existed or could be developed that really would perform the
18 function that we wanted.

19 We were told at the beginning of that system,
20 Think outside the box. Think the best thing you would ever
21 have, you know, everything that you would ever want. And so
22 the committee that I was on, we did that. We tried to develop
23 a calendar system that would track leave, that would tell you
24 what courtrooms were being used, would tell you what courtroom
25 deputies were available to be used and so forth and so on. And

1 in a large court, that's important because, oftentimes,
2 courtrooms are shared and courtrooms aren't available.

3 It was too much. And so, unfortunately, what I
4 think -- maybe last year or a couple of years ago, we were all
5 notified that the calendar aspect of CM/ECF was not going to be
6 continued to be developed. So that was an unfortunate aspect
7 of it. But there are many other things that came about that
8 were good. I think you're probably experiencing some of those
9 things now. Useful reports. And so I think the work that we
10 did was very beneficial to the courts.

11 CHIEF JUDGE MARKS: You know, some of what I did as a
12 lawyer, I didn't -- I primarily used CM/ECF for filing --

13 JUDGE COODY: Right.

14 CHIEF JUDGE MARKS: -- my documents or for going and
15 looking at and verifying things that other parties had filed.
16 But I don't know that there's a very good communication to the
17 Bar from the court about what CM/ECF looks like on our end and
18 how the court uses it, which I think if that is communicated
19 better would help attorneys help us. Because I think if they
20 file things in a certain way and have a document filed under a
21 certain heading --

22 JUDGE COODY: Heading.

23 CHIEF JUDGE MARKS: -- it matters to us how it shows
24 up on our end.

25 JUDGE COODY: Right.

1 CHIEF JUDGE MARKS: Talk to us about what it is that
2 shows up on the judge's side of CM/ECF that helps us manage our
3 dockets. For example, if a document is filed under the heading
4 "Motion," what does that do on the trajectory of the system to
5 help the judges move that motion forward?

6 JUDGE COODY: So we, of course, see the entire docket
7 sheet. We can see even the things that are filed under seal
8 that typically the lawyers and certainly the members of the
9 public can't see. But, for example, a motion, when that
10 appears on the docket sheet, there's a little gavel that
11 appears in the line with the motion that indicates to you that
12 this is a motion that needs to be ruled on. One of the things
13 that it generates, though, it generates a report every night of
14 motions that have been filed or documents that have been filed
15 in every case. So typically what I do in the morning is I pull
16 up that email. And the system sends an email at midnight that
17 lists all of the things that have been filed and all the cases
18 assigned to you, and I go through that list --

19 CHIEF JUDGE MARKS: On that previous day.

20 JUDGE COODY: -- on that previous day. So that's the
21 first thing we look at.

22 It simply makes our lives much more efficient.
23 It enables us to sit at the computer or look on your cell phone
24 or look on your iPad and see the documents that have been filed
25 and review those documents to see if there's any action that

1 you need to take.

2 CHIEF JUDGE MARKS: And so if a lawyer has a motion
3 but they don't file it under the heading "Motion," it won't get
4 that little gavel icon that will alert the court that there's
5 some court action that's necessary on that particular document.

6 JUDGE COODY: Well, you're correct. But typically the
7 clerk's office will pick that up.

8 CHIEF JUDGE MARKS: Will catch it.

9 JUDGE COODY: They will catch that, and they will
10 characterize it properly. So...

11 CHIEF JUDGE MARKS: Which is, again, a part of the
12 importance of the court family.

13 JUDGE COODY: Exactly.

14 CHIEF JUDGE MARKS: And that is we've got stopgaps to
15 help us --

16 JUDGE COODY: Yes.

17 CHIEF JUDGE MARKS: -- ensure that even if something
18 is not filed as a motion, the clerk's office will catch it and
19 docket it --

20 JUDGE COODY: That's right.

21 CHIEF JUDGE MARKS: -- as a motion.

22 JUDGE COODY: Yes.

23 CHIEF JUDGE MARKS: So it gets the gavel icon --

24 JUDGE COODY: It gets the gavel icon.

25 CHIEF JUDGE MARKS: -- and our attention.

1 JUDGE COODY: That's right.

2 CHIEF JUDGE MARKS: And that's part of the way in
3 which we help ensure that things don't languish.

4 JUDGE COODY: That's right.

5 CHIEF JUDGE MARKS: And part of that is the reporting
6 system.

7 JUDGE COODY: That's exactly right. You know, you can
8 generate reports of your pending motions. I do that every
9 Monday to look at what motions are pending on the cases before
10 me. I don't run it every day because I am able to review
11 everything every day. But that's a good reminder about what's
12 pending, and it enables us to create a workflow within your
13 chamber so that when a motion is filed, it's assigned to a law
14 clerk --

15 CHIEF JUDGE MARKS: Good.

16 JUDGE COODY: -- something that you can handle. We
17 can very quickly dispose of some motions by simply making a
18 docket entry -- tell the clerk's office to make a docket entry.
19 So it simply makes everything more efficient, and it makes us
20 able to focus on substance rather than process. And that's
21 important.

22 CHIEF JUDGE MARKS: And just practically speaking,
23 CM/ECF is one of the things that enabled the court to continue
24 to operate so smoothly during COVID.

25 JUDGE COODY: During COVID, yes.

1 CHIEF JUDGE MARKS: Because people could remotely --

2 JUDGE COODY: Could remotely handle all the work.

3 CHIEF JUDGE MARKS: -- access files.

4 JUDGE COODY: Yeah. And I still do that. I mean, you
5 know, I'm semiretired, if you will, and I'm responsible for 40
6 percent of the prisoner cases in the court. And in conjunction
7 with working with the pro se law clerks -- we have three of
8 those -- I handle that case. And I do all that remotely. So I
9 can read all of those filings, and I do read all those filings
10 that come in from the prisoners. So...

11 CHIEF JUDGE MARKS: And the technology of CM/ECF with
12 input from judges like you --

13 JUDGE COODY: Yes.

14 CHIEF JUDGE MARKS: -- and practioners and law clerks
15 continues to evolve.

16 JUDGE COODY: Yes. Hopefully it will.

17 CHIEF JUDGE MARKS: And so you've also -- in addition
18 to your interest in technology and interaction between
19 technology and the court, you've seen a lot of evolution just
20 over the years of the practice of law and judging.

21 Tell me about -- well, tell me about after having
22 been on the bench for awhile, you had a history of being a
23 debater. You helped Mom --

24 JUDGE COODY: I was --

25 CHIEF JUDGE MARKS: -- who was a debate coach --

1 JUDGE COODY: Yes.

2 CHIEF JUDGE MARKS: -- here in Montgomery.

3 JUDGE COODY: She was a debate coach at St. James.

4 CHIEF JUDGE MARKS: At Lamp.

5 JUDGE COODY: At Lamp. Beginning at Lamp and then at
6 St. James, yes.

7 CHIEF JUDGE MARKS: And so you had a lot of work that
8 you did on your own time with debaters.

9 JUDGE COODY: Right. I enjoyed that very much,
10 working with them. In fact, one of our top debate students is
11 now a federal judge in Birmingham. So...

12 CHIEF JUDGE MARKS: Judge Manasco.

13 JUDGE COODY: Judge Manasco.

14 CHIEF JUDGE MARKS: Yes.

15 JUDGE COODY: So I'm very proud of her, just as I am
16 of you.

17 But working with those young people and dealing
18 with the issues that they dealt with just, you know, keeps you
19 fresh and young.

20 CHIEF JUDGE MARKS: And a lot of those young debaters
21 went on to the legal professional.

22 JUDGE COODY: Went on to the legal profession, went
23 into banking, went into international relations. So that's a
24 good starting point for them.

25 And, in fact, my oldest grandson is now on the

1 debate team --

2 CHIEF JUDGE MARKS: At Newman.

3 JUDGE COODY: -- at Newman at --

4 CHIEF JUDGE MARKS: In New Orleans.

5 JUDGE COODY: Newman in New Orleans. So...

6 CHIEF JUDGE MARKS: So your career has been quite an
7 intersection between education and the law.

8 JUDGE COODY: Yes.

9 CHIEF JUDGE MARKS: And so --

10 JUDGE COODY: Most definitely.

11 CHIEF JUDGE MARKS: -- looking back on that, what is
12 your overall view of the importance of the intersection between
13 the law and education?

14 JUDGE COODY: Well, you can't have law without
15 education, obviously. But when you talk about the intersection
16 between the two, I think you have to be realistic about where
17 the law is now. Again, going back to what I said earlier, when
18 I first started practicing law, lawyers were much more
19 collegial than they are now, unfortunately. And so I think the
20 focus of the practice of the law then was clients have a
21 problem, how can we solve that problem. And I use the "we" to
22 mean the lawyers on both sides.

23 During that earlier period of time, much of the
24 complex litigation was about institutional change. The *Wyatt*
25 *versus Stickney* case, we're still seeing some of that now with

1 the prison cases. But over time, I think the focus has
2 switched from using law as a device to effect institutional
3 change. Now law is being used to effect societal change.

4 All of the issues -- the very contentious issues
5 that exist in our society seem to wind up in the courts. And I
6 think that part of that is an evolution of the failure of
7 education to instruct people about the history of this country,
8 the reason that we have a set of -- should have a set of shared
9 values about what this country means. There's a lot of talk
10 about the decline of democracy in this country. And that's
11 very worrisome. So education, in one sense, can be termed
12 propaganda, but it needs to be something that looks toward the
13 future and what people need to understand in order to be able
14 to function effectively in our society.

15 CHIEF JUDGE MARKS: And so have you seen, then, the
16 practice of law change and evolve over the years --

17 JUDGE COODY: Well, again, it's become less collegial;
18 it's become much more contentious.

19 CHIEF JUDGE MARKS: Do you attribute that in any way
20 to technology because people just don't talk face-to-face as
21 much as they used to?

22 JUDGE COODY: I think that's an aspect of it.

23 At one point, one of the requirements that the
24 federal rules require is before filing a discovery motion, that
25 the lawyers talk. The rule doesn't say that. The rule -- I've

1 forgotten the term the rule uses. But I actually developed an
2 order one time that required the lawyers to talk to each other
3 at least by telephone. Because lawyers don't talk. We email,
4 and now everybody texts, and that has done away with, again,
5 the person-to-person that I think is so important for lawyers.
6 But again, that relates to the decline in collegiality.

7 CHIEF JUDGE MARKS: And as you look back on how the
8 court has changed particularly here in the Middle District, do
9 you note any changes or -- obviously, we have more magistrate
10 judges than --

11 JUDGE COODY: Right.

12 CHIEF JUDGE MARKS: -- when you started.

13 JUDGE COODY: Right.

14 CHIEF JUDGE MARKS: You look at the courthouse as
15 built?

16 JUDGE COODY: This courthouse was built, and that was
17 primarily the work of Judge Albritton and Judge Thompson and
18 the other district judges who had to fight to have a
19 courthouse, not a building with courtrooms in it. And there's
20 a difference. If you compare the Hugo Black Courthouse in
21 Birmingham, it's a building with courtrooms in it. This is a
22 courthouse, a place designed specifically for courts. And, you
23 know, there are three levels in this building, if you will.
24 There's the public area, there's the secure area, and then
25 there's the prisoner area.

1 In the old courthouse, I always knew when it was
2 time to go to the courtroom because you could hear the clank of
3 the ankle bracelets the prisoners were wearing as they walked
4 down the public hallway to get to the courtroom. Of course,
5 that doesn't happen here. We have prisoner tunnels and
6 elevators that go right up into the holding cells outside of
7 the courtroom. So it's a big difference. That's a huge
8 difference that has changed with this courthouse.

9 In other ways, this court I think hasn't changed
10 that's good; and that is the collegiality that exists among the
11 judges here, which is not true in every court. The bigger the
12 court, the more difficult it is to communicate.

13 CHIEF JUDGE MARKS: Sure.

14 JUDGE COODY: And we're very fortunate to be as small
15 as we are. And, of course, all the judges know each other.
16 And the magistrate judges have practiced before the district
17 judges. So it always has been a very collegial court. And,
18 you know, were friends. We're part of the family.

19 CHIEF JUDGE MARKS: When you look back on your career,
20 what stands out to you as some of the most important aspects of
21 your job and quality of life as a magistrate judge?

22 JUDGE COODY: One of the responsibilities that
23 magistrate judges have is to assist the district judges in
24 carrying out their duties. And so we do that with the
25 responsibilities we have, which often interrupt your whole day.

1 For example, we hold initial appearances when a person is
2 arrested. That tells them what the charges are against them,
3 make sure they understand those changes. That can happen
4 anytime of the day. There's no set time when people get
5 arrested. And so you may have your day planned out, and it
6 gets interrupted by those kinds of things.

7 So our daily experience as magistrate judges
8 hopefully is different from your experience as a district judge
9 because you don't have those interruptions. And so that's one
10 of the things that we serve the court to free you up from,
11 being able to focus on your responsibilities. That's just one
12 aspect of it.

13 CHIEF JUDGE MARKS: When you started in 1987, did you
14 think you'd be talking about your 35-year career?

15 JUDGE COODY: I did not, no. I didn't know what --
16 you know, you look back on that, when I first began, we had IBM
17 Selectric typewriters with the old ball that went around.
18 Yeah, it's amazing how things have developed over time.

19 CHIEF JUDGE MARKS: Some things change and some things
20 stay the same.

21 JUDGE COODY: Some things stay the same.

22 CHIEF JUDGE MARKS: And so what are you doing now?
23 You mentioned you do 40 percent of the prison --

24 JUDGE COODY: We live in Birmingham. Hendon and I
25 moved to Birmingham about three years ago. And we wanted to

1 move up there to be near our young grandchildren. You've got
2 two boys that we dearly love. And my oldest grandchild is in
3 New Orleans. But Hendon's children have grandchildren now.
4 We've got -- what? -- four little boys and one little girl,
5 who's six months old. She was born six months ago. And she's
6 really a delight. And so, you know, we're working with
7 grandchildren. And I work on the cases when I need to. I do
8 it all remotely, and that's been a real joy.

9 CHIEF JUDGE MARKS: Which would not have been possible
10 back in the day.

11 JUDGE COODY: No, it would not have been.

12 CHIEF JUDGE MARKS: And so that's another benefit
13 of --

14 JUDGE COODY: Right.

15 CHIEF JUDGE MARKS: -- technology; because otherwise,
16 you probably wouldn't be able to continue.

17 JUDGE COODY: Wouldn't be able to do it. I would not
18 have been able to continue.

19 CHIEF JUDGE MARKS: And you're doing that on recall
20 status.

21 JUDGE COODY: Yes, recall. That's the official title
22 for where I am. I retired and am now recalled. I know that
23 sounds like I'm defective in some way, but --

24 CHIEF JUDGE MARKS: That means the opposite
25 (unintelligible).

1 JUDGE COODY: No. Recall means --

2 CHIEF JUDGE MARKS: Recall is good.

3 JUDGE COODY: Recall means I have been recalled to
4 duty.

5 CHIEF JUDGE MARKS: That's right.

6 JUDGE COODY: To assist the court.

7 CHIEF JUDGE MARKS: That's right. And so essentially,
8 you're working for free.

9 JUDGE COODY: That's right. Yeah, I am. Yes.

10 CHIEF JUDGE MARKS: Thank you for your service.

11 JUDGE COODY: You're welcome. I'd get paid whether I
12 did it or not.

13 CHIEF JUDGE MARKS: That's right. That's right.

14 Well, how do you feel about having a child on the
15 federal bench?

16 JUDGE COODY: I am just as proud of you as I can
17 possibly be. I --

18 CHIEF JUDGE MARKS: I guess it would have pushed you
19 out maybe a little bit.

20 JUDGE COODY: Well, you know, there was a question
21 when it was clear you were going to be appointed as to whether
22 I could continue. I think we're the only father/child --

23 CHIEF JUDGE MARKS: That's probably right.

24 JUDGE COODY: -- in the country. But as it turns out,
25 because I'm a magistrate judge, the anti-nepotism statute

1 doesn't affect us. So we had to get an opinion from the
2 general counsel from the Administrative Office to --

3 CHIEF JUDGE MARKS: We did our due diligence.

4 JUDGE COODY: -- ensure that we did our due diligence.
5 It was very interesting. So it has been enjoyable to watch you
6 mature in the job and develop.

7 You know, I'll ask you a question. Do you feel
8 like you still know what you're doing?

9 CHIEF JUDGE MARKS: I learn something new every day.

10 JUDGE COODY: Yes.

11 CHIEF JUDGE MARKS: And I think it's part of I would
12 call it the practice of law instead of the perfection of law,
13 because it is just --

14 JUDGE COODY: No question. And even 35 years, I learn
15 something new every day.

16 CHIEF JUDGE MARKS: That's true.

17 JUDGE COODY: So that never changes. And that's one
18 of the wonderful aspects of the job.

19 CHIEF JUDGE MARKS: That's true.

20 Well, I know when I came on board, it felt like a
21 homecoming because I grew up --

22 JUDGE COODY: Right.

23 CHIEF JUDGE MARKS: -- essentially at the federal
24 court --

25 JUDGE COODY: Right.

1 CHIEF JUDGE MARKS: -- because of you. And I tell
2 people that growing up with someone who loved his job, which
3 you clearly did --

4 JUDGE COODY: I did, yes.

5 CHIEF JUDGE MARKS: -- has an effect on a child. I
6 think even if you didn't say it, we knew it, that you loved
7 what you did.

8 JUDGE COODY: Well, one of the stories that I want us
9 to get out in public really is your story. But you were about
10 14 years old, and you came down to the courthouse to visit.
11 And my secretary, Carolyn, had something that she needed to
12 take to Judge Johnson's office. He was still a district judge
13 at that time.

14 CHIEF JUDGE MARKS: I think he -- at that time --

15 JUDGE COODY: Maybe he was on the circuit.

16 CHIEF JUDGE MARKS: -- he was on the circuit.

17 JUDGE COODY: I think he was.

18 CHIEF JUDGE MARKS: But he was here.

19 JUDGE COODY: He was. But he was here. He was still
20 in the building. Because we were still in the old building at
21 that time.

22 And so she asked you if you wanted to come up and
23 maybe meet Judge Johnson. So you have to tell the story from
24 there.

25 CHIEF JUDGE MARKS: So -- yes. So, Carolyn, your

1 assistant, took me up to Judge Johnson's chambers to deliver a
2 file of papers or something --

3 JUDGE COODY: Yeah.

4 CHIEF JUDGE MARKS: -- and asked Judge Johnson's
5 secretary if he was in and if he would meet me, and his
6 assistant came back and said, yes, Judge Johnson said he will
7 meet Emily. And so I went over to the door to his chambers,
8 and I spoke to him. I had no idea who he was. And in just our
9 general pleasantries, I noticed he had a grandfather clock.
10 And so I said, I like your clock. And he said, I made it. And
11 I said, You made that clock? How do you make a whole clock?
12 And he said, Well, come in and I'll tell you. And he brought
13 me into his chambers and turned to Carolyn and said, You can
14 leave. And she left. And I went in and just visited with him.

15 He asked me what I wanted to be when I grew up.
16 I told him I wanted to be a lawyer. And he said that's a fine
17 profession and told me about his woodworking shop in his home
18 where he did a lot of woodworking and told me how he made a
19 clock. And he walked me to the door after a little while. And
20 I remember he opened the door and Carolyn was sitting, and she
21 was sort of on the edge of her seat. And she turned around and
22 she said, Are you okay? And I said, I'm fine.

23 And we came back, and you and Judge Carroll were
24 actually talking in your office. And you said, Well, where
25 have you been? You've been gone for awhile. And Carolyn said,

1 Emily was just in Judge Johnson's chambers by herself --

2 JUDGE COODY: By herself.

3 CHIEF JUDGE MARKS: -- for about 20 minutes. And
4 Judge Carroll said, I wouldn't want to be in Judge Johnson's
5 chambers --

6 JUDGE COODY: That's right.

7 CHIEF JUDGE MARKS: -- by myself for 20 minutes.

8 JUDGE COODY: No lawyer would. No lawyer would.

9 CHIEF JUDGE MARKS: And I just didn't have any idea.

10 And I remember we got home that night, and you told Mom, Guess
11 what happened at --

12 JUDGE COODY: Yeah.

13 CHIEF JUDGE MARKS: -- at work; Emily met Judge
14 Johnson. And with her reaction being as excited as it was, I
15 thought, Who is this person?

16 JUDGE COODY: See, you were destined to live here.

17 Interestingly enough, a couple of days later I
18 happened to get on the elevator when Judge Johnson was on the
19 elevator, and he said, Well, thank you for letting her come up;
20 she is a delightful young lady. So he was impressed with you.

21 CHIEF JUDGE MARKS: Well, that's nice to hear.

22 So, yes, it was like a homecoming to me. And I
23 remember when you were practicing law, I thought, Why would you
24 want to be a lawyer? All he does is work and read papers.

25 JUDGE COODY: That's right.

1 CHIEF JUDGE MARKS: And then you came on the bench,
2 and it was just -- everything was interesting. You obviously
3 loved your job and --

4 JUDGE COODY: I still do.

5 CHIEF JUDGE MARKS: -- and was happy. And I get that
6 now, obviously. I loved practicing law as well, but being
7 here, we give new meaning to the word -- or to the term court
8 family --

9 JUDGE COODY: Yes.

10 CHIEF JUDGE MARKS: -- for sure.

11 JUDGE COODY: Indeed it does.

12 CHIEF JUDGE MARKS: Well, thank you for --

13 JUDGE COODY: Well, thank you.

14 CHIEF JUDGE MARKS: -- recounting your story for
15 everyone. I've heard them for years, and they need to be told
16 and preserved so that they're not lost to history and time.

17 JUDGE COODY: Well, I hope people don't find this too
18 boring to look at.

19 CHIEF JUDGE MARKS: Hopefully not.

20 JUDGE COODY: Hopefully not.

21 CHIEF JUDGE MARKS: But there's always something
22 interesting.

23 JUDGE COODY: Well, thank you, Chief.

24 CHIEF JUDGE MARKS: Thank you, Judge Coody. It's been
25 a pleasure.