

Judicial Conference
Tenth Judicial Circuit of the United States

Presentation of Portrait
of the
HONORABLE ROBERT H. McWILLIAMS

July 27, 1990
Keystone, Colorado



HONORABLE ROBERT H. McWILLIAMS

Proceedings

At the Tenth Circuit Judicial Conference the Court publicly presented the official portrait of Circuit Judge Robert H. McWilliams in the following proceedings:

JUDGE MOORE: Now for a very important occasion, I'll turn the program over to my brother, James Logan, Kansas.

JUDGE LOGAN: Thank you. Last year at this conference we commenced a tradition of portrait presentation ceremonies honoring our senior status judges. These paintings will hang in our courthouse, the remodeled courthouse/post office building, in Denver when we recapture that building about two years hence. We initiated the ceremonies as an excuse to publicly praise, and maybe to tease a little, our colleagues who have given us so many years of service and to whom we owe so much.

I'm pleased today to make remarks on behalf of his judicial colleagues about our honoree, Judge Robert H. McWilliams, Jr. I volunteered for this task and only afterwards began to realize how difficult it would be to do justice to this remarkable man in the few minutes allotted.

Bob McWilliams started life as a Kansan, but at age 11 moved to Colorado when his father became chairman of the Department of Sociology at Denver University. Bob became one of Denver University's most distinguished and loyal sons, taking his undergraduate and law degrees there. He served as president of the DU Alumni Association in 1952 and of its Law School Alumni Association in 1968, and he received from that school an honorary LL.D. degree in 1971.

We're unsure of what got Bob interested in the law; but it probably helped that he won a constitutional law essay contest as a senior in college in 1938, which netted him the then princely sum of \$200. He was a brilliant undergraduate student, a brilliant law student, as well as an outstanding tennis and basketball player.

Bob married a native Colorado woman, Catherine Cooper, whom he met on a train going to the west coast for a shipboard trip to Hawaii to a sporting event. Catherine was making the same trip to visit another young man to whom we understand she was practically engaged. Rumor has it that by the time the ship arrived in Hawaii the other fellow was totally out of the picture. Bob denies that. He says he played it cool. But we know the end result.

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Catherine and Bob have one son, Edward. They named him for one of Bob's brothers, who lost his life during World War II. Ed had the good sense not to become a lawyer; he is a successful real estate broker. Ed's wife, Marilyn, however, is about to start her third year in law school at Denver University, after producing for Bob three granddaughters. We will meet these granddaughters in a few minutes when they come up to unveil the portrait.

Catherine died in 1984, and Bob later was fortunate enough to find another marvelous woman with whom to share his life. He married Joan Cady, one of his former law clerks. The court appreciates Joan for many reasons, but we are particularly grateful that her busy legal career, and her consequent lack of free time, has kept Bob working for our court, where he continues to carry a large load.

What I want to talk about today briefly are two aspects of Bob's life: as a jurist and as a human being.

This man has been a judge for over 40 years. He has been through all the chairs. He started out as a part-time municipal judge in Denver in 1949. In 1952 he was appointed and then elected to the Colorado State District Court bench. Then in 1960 he ran for and was elected to the Colorado Supreme Court, where he served ultimately as Chief Justice. Finally, in 1970 his skill and experience was recognized on the national level and he was appointed to the Circuit, where he has served for 20 years, the last six as a senior judge. He is closing in on something like 1500 appellate opinions. He has authored 948 published and unpublished opinions, majority opinions, for the Tenth Circuit as of a few weeks ago. He has also authored a spectacularly small 19 dissents or special concurrences in that time. He says, in deciding whether to dissent, the question is whether his indignation would overcome his inertia. (laughter) Before coming to our court he wrote 461 published opinions while a Colorado Supreme Court justice, a few of them dissents and concurrences. Of course, he decided a lot more cases than that, sitting on a panel and as a state district court judge.

Bob McWilliams was apparently born to be a judge, but he could have been a pretty good politician too. Newspaper accounts indicate that a surprising 80% of the delegates at the State Republican Assembly supported him for the primary ballot for Colorado Supreme Court in 1960 over another very strong Republican candidate. Then in the general election, after the polls showed him way behind his opponent, he scored the biggest victory of any political race in Colorado, outdistancing the margins of the presidential candidate, the U.S. senator running for reelection, and all the congressional races. This landslide may have had its origins in the fact that before the election he ran ahead of his opponent in a poll of the Denver Bar Association lawyers by a vote of 1,033 to 58.

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Bill Steele, an old friend, says that practically all lawyers in Colorado beat the bushes for Bob in that election. Indeed, the only close race he ever had was two years after he had been appointed district judge and was running for a full six-year term. He came in ninth of nine winning candidates. He told a newspaper reporter, and I quote, "I decided right then that I wouldn't run again in a Denver judicial race." And he didn't!

What kind of a judge has he been? I have letters from most of his former law clerks, and these are the words that appear in some form or another in every one: "Fair-minded; judicial temperament; decisive; good-natured; patient; tolerant; an extraordinary individual; a man of honor; a person to respect; a mentor." One clerk's comment sums up Bob's judicial and judicious temperament as follows: "Despite strongly held views, he always maintained an open mind."

Several mentioned what members of our court and the lawyers reading his opinions have long noted—he writes direct, concise opinions; his word processor appears to have a nine-page maximum. (laughter) He also amazes the rest of us by his unique ability to write opinions that seldom draw petitions for rehearing, in contrast to the rest of us.

I believe that he has the ability to write like Judge Learned Hand, if he chooses. But Bob McWilliams always has believed that our task is to decide cases fairly and as quickly as possible, without plunging into great depths of law pronouncements. As a Supreme Court candidate in Colorado 30 years ago, he summed up his views of the qualities by which to judge a judge to a newspaper reporter, who was asking him why he thought he was the most qualified to serve on the Colorado Supreme Court. He said then, "An informed voter should consider a candidate's educational background and general intellectual ability, his basic honesty and integrity, and his ability to be utterly impartial; his professional and judicial experience; and his temperament and general habits and characteristics." This candidate for public office then merely added that he would be happy for the voters to compare his record to the others in these particulars and he was confident that he would not suffer. I think the verdict of 40 years bears out that his record has not suffered by comparison.

But no matter how outstanding Bob McWilliams' legal career has been, it is as a human being that he has made a very special impression on his colleagues. We appellate judges are so isolated from the general public that you hardly know us. But the job requires a small group of judges to have a lot of contact with each other. Bob McWilliams is a remarkable human being. He laughs loudly and enjoys life immensely. He swims and walks for physical exercise virtually every day. One of his clerks says he even enjoys

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doing errands, because he's so securely settled in his life that the simple details of existence delight him. He makes friends and he keeps them forever. Many are here today. Bob and his son Ed make a trip together every summer to Chicago when both the White Sox and the Cubs are in town and they can see lots of baseball games, more than one a day. It's a wonderful way to cement a friendship between a father and an adult son who share a common love for athletics.

We colleagues of Bob McWilliams had the bittersweet experience of seeing this man, who truly loved his wife Catherine, to whom he was married 42 years, suffer with her during two very serious illnesses. He was the epitome of the loving, caring husband.

Thereafter we saw this person, who had the physical health of a champion athlete, pick up the pieces of his life and woo and win another remarkable woman, to embark on a happy second marriage. Joan says that this decisive judge is very easy to live with and is one of the most flexible human beings she has ever met. Her only complaint is that he has discovered ESPN, the sports channel on TV, which has increased his already lifetime addiction to sporting events. (laughter)

During his career Bob has commented that he has obtained great satisfaction and a feeling of well-being in rendering public service. He stated on the occasion of his taking senior status, "I guess all I can hope for is that people will say, 'He did the best he could with a degree of intelligence and common sense.'" Then he added deprecatingly, "Some people may think I was over my head in the municipal court." (laughter)

Well, Bob, I can assure you that your colleagues *know* you were not in over your head on any problems the Circuit has considered during your tenure on this court.

Today we salute with respect and affection an outstanding judge and a great human being, Robert H. McWilliams.

(Standing ovation)

(The portrait of Judge McWilliams was unveiled by his granddaughters.) (applause)

JUDGE LOGAN: They were a little nervous about that.

JUDGE McWILLIAMS: I'm not going to go to the podium. I'll be brief. I think you can all hear me.

Seeing for the first time an oil portrait of myself, made by an artist I've never met, is a high-risk operation and very humbling, I might add. (laughter)

At the same time I want to thank my colleague, Jim, for his more than generous remarks and the other nice things he said

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about me. Much of it was ancient history, and fortunately there are not too many here who could dispute the truth and accuracy of what he said. But then a little bit of hyperbole never hurt anybody, and I liked it, Jim. (laughter)

As Jim said, I've been a judge forever, it seems. It was 41 years ago this very month, as a matter of fact, that I was called by the mayor of the City and County of Denver, Quigg Newton, who wanted to know if I wanted to be a part-time municipal judge. I said, "Yes." And before long the whole thing got out of hand. (laughter)

I've had many happy years as a judge, but this is probably my happiest moment. Thank you for the portrait and your very warm response.

(Standing ovation)

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