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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

THE UNVEILING OF THE PORTRAIT OF)
THE HONORABLE JEAN S. BREITENSTEIN)

Proceedings before the HONORABLE ALFRED A. ARRAJ,
Chief Judge, United States District Court for the District
of Colorado, the HONORABLE HATFIELD CHILSON, Judge, United
States District Court for the District of Colorado, and the
HONORABLE WILLIAM E. DOYLE, Judge, United States District
Court for the District of Colorado, beginning at 4:10 p.m.,
on the 3rd day of June, 1969, in Courtroom A, United States
Court House, Denver, Colorado.

PROCEEDINGS

1
2 JUDGE ARRAJ: This special session of Court is con-
3 vened for the purpose of unveiling the portrait of Judge Jean
4 S. Breitenstein, a former Judge of this Court. The portrait
5 will eventually be hung with those of the other distinguished
6 former Judges of our Court.

7 We acknowledge with pleasure the presence today of
8 Judge Breitenstein's family, his wife Helen, their daughter
9 Eleanore Wilfley, their son Peter, also Eleanore's husband
10 George and Peter's wife Carla, and their grandsons Mike and
11 John Wilfley, and his brother Robert S. Breitenstein and his
12 wife.

13 Among others present within the Bar of the Court
14 are Chief Justice Robert H. McWilliams of the Colorado Supreme
15 Court and Associate Justices Day, Pringle, Kelley, Groves and
16 Lee; Richard Simon, President-Elect of the Colorado Bar Asso-
17 ciation; Bill Miller, Executive Secretary of the Colorado Bar
18 Association and the Denver Bar Association; James Treece,
19 United States Attorney; William Terrill, United States Marshal;
20 Leslie Reed, Chief Probation Officer of the United States
21 District Court; William Whittaker, Clerk of the Court of
22 Appeals of the Tenth Circuit; also the three Referees in
23 Bankruptcy of our Court.

24 Recently, we held a ceremony at which the portrait
25 of the late Judge Lee Knous was unveiled and later hung upon

1 the wall of this courtroom. Now, as you readily observe,
2 there appear in this courtroom the portraits of all the
3 former Judges of this Court, with the exception of Judge Jean
4 S. Breitenstein.

5 Judge Breitenstein was the fifth Judge in the his-
6 tory of our Court. He was appointed by President Eisenhower
7 in 1954 and served until 1957, when he resigned to accept the
8 appointment as Judge of the United States Circuit Court of
9 Appeals for the Tenth Circuit, incidentally opening up a
10 position wherein I was able to come in.

11 Today is the fifteenth anniversary of Judge
12 Breitenstein's induction into the office of United States
13 District Judge, and it is, therefore, an appropriate time
14 for us to follow our tradition.

15 Although this is not the proper occasion to recount
16 in detail the life of Judge Breitenstein and his many achieve-
17 ments, nevertheless, it is proper and fitting that the record
18 of the proceedings identify him beyond the mere mention of
19 his name.

20 Judge Breitenstein, although born in Iowa, has
21 spent most of his life in Colorado. He received his Bachelor
22 of Arts degree and his Law degree from the University of
23 Colorado, and was admitted to practice in Colorado in 1924.
24 From 1925 to 1929 he was an Assistant Attorney General of the
25 State of Colorado, from 1930 to 1933 an Assistant United

1 States Attorney, and from 1933 until appointed a Judge of this
2 Court he engaged in the private practice of law in Denver. He
3 became recognized as a leading authority in the field of water
4 law and for many years represented Colorado in interstate
5 water matters which were so vital and are so vital to this
6 state.

7 Among the honors that Judge Breitenstein has received
8 are the Presidency of the Colorado Bar Association, the Order
9 of the Coif, Phi Beta Kappa, Doctor of Law degrees from the
10 University of Colorado and from the University of Denver.

11 Judge Breitenstein came to this bench with a wide
12 and varied experience in the practice of law, which provided
13 him with an excellent foundation for exercising judicial
14 responsibility. He was widely known as a brilliant lawyer
15 and upon his elevation to the bench soon was recognized as
16 being an equally brilliant jurist. As a trial judge, he was
17 precise, yet prudent; he was firm, yet fair. His clear,
18 succinct and incisive opinions have earned for him among
19 the members of the bench and the bar the merited reputation
20 as one of the most competent appellate judges in the Federal
21 judicial system. We are indeed proud that he is one of us.

22 We have asked the Judge's daughter Eleanore and his
23 son Peter to assist in this ceremony by unveiling the portrait
24 of Judge Breitenstein.

25 (The portrait was unveiled.)

1 JUDGE BREITENSTEIN: Thank you, Chief Judge Arraj,
2 for all those kind words.

3 If I were to analyze your remarks from the stand-
4 point of an appellate court, I would say that your findings
5 of fact have some support in the record, but I am afraid that
6 the conclusions drawn therefrom might raise some question.
7 At the same time, I sincerely hope that nobody takes an
8 appeal, because in the event of a reversal I would be quite
9 embarrassed.

10 As you said, Chief Judge Arraj, fifteen years ago,
11 on June 3, 1954, at four o'clock in the afternoon, I became
12 a United States District Judge. My outstanding and un rebuttable
13 claim for distinction in that office is the fact that I held
14 it for the shortest time of any incumbent, a little over three
15 years.

16 I am especially delighted to have present today the
17 Justices of the Colorado Supreme Court. You know, for a long
18 time, I had an abiding ambition to be a Justice of the Colo-
19 rado Supreme Court, but I never had the courage to run the
20 risk of an election. The comity and friendship which now
21 exists between the State and Federal Judges in Colorado is
22 most satisfying to me. That spirit has not always existed
23 and indeed, it does not exist now in numerous states of the
24 Union, including some of the states of this Circuit, but, in
25 my opinion, mutual understanding and mutual cooperation between

1 Federal and State Courts is both desirable and necessary.

2 Since the creation of the office of the United
3 States District Court for the District of Colorado, over 90
4 years ago, as Judge Arraj said, there have been eight men who
5 have held that office. The portraits of four of them are on
6 the wall, Judge Halleck, Judge Robert E. Lewis, Judge Foster
7 Symes and Judge Lee Knous. The other four are all sitting
8 here at the bench. I had the privilege of trying cases in
9 District Court before all of those whose portraits are on the
10 wall except Judge Halleck. Now, he was a little before my
11 time. Perhaps it was because of those experiences that I
12 consented to these proceedings.

13 I used to explain, "You lawyers in Colorado do not
14 realize how fortunate you are in having men like Chief Judge
15 Arraj, Judge Chilson and Judge Doyle preside over Federal
16 District Court here in Colorado." I say that advisedly,
17 because I have a wide acquaintanceship with the Federal
18 judiciary, and when you lawyers are in this courtroom trying
19 cases, arguing motions, or just waiting, and while you are
20 grumbling over trailing calendars, the intricacies of Federal
21 procedure and unsympathetic rulings, you can look at the
22 portraits on the wall, heave a sigh of relief, and think to
23 yourself how fortunate you are that you do not have to try
24 your cases before those old fogies.

25 Many times I regretted that I left the District

1 bench. The District Court is the most important unit in the
2 Federal judicial system for the very simple reason that's
3 where they find the facts. A great Chief Justice of the
4 United States once remarked that an unscrupulous dictator
5 might well say, "Let me find the facts for the people of my
6 country and I care not who lays down the general principles."

7 The trial court is absorbed with judicial administra-
8 tion at first hand. The appellate court is concerned with
9 fashioning appropriate rules and doctrines for use in the
10 trial court, and I am proud to have been a District Judge.

11 I am happy to have my portrait join those of my predecessors.

12 So far as the portrait is concerned, the only doubt
13 that I have is that the artist has perhaps given me a benevo-
14 lent and benign look. It is not entirely compatible with
15 my reputation, but I appreciate it and I hope that the present
16 Judges continue the tradition.

17 Thank you all for coming, and, Mr. Chief Judge,
18 that concludes my argument.

19 JUDGE ARRAJ: Thank you, Judge Breitenstein.
20 I see that I overlooked recognizing among those within the
21 Bar of the Court Mrs. Irene Smythe, who has been Judge
22 Breitenstein's secretary since prior to his appointment to
23 the Federal bench. Mrs. Smythe has been ill and we are
24 pleased that she is well enough to attend this ceremony.

25 Now, I am sure, ladies and gentlemen, that you all

1 will agree that this portrait is an excellent likeness of
2 Judge Jean S. Breitenstein. It will be hung in this court-
3 room, along with the portraits of the other eminent jurists
4 who have served in this Court. It will be here always to
5 keep fresh our awareness and pride that our friend and
6 colleague graced the bench of our Court with faithfulness,
7 with integrity and with distinction.

8 The Court is also pleased this afternoon to
9 announce that an association of the former law clerks of
10 Judge Breitenstein recently created a scholarship at the
11 University of Colorado School of Law. The Jean S. Breiten-
12 stein Law Clerks' Scholarships will be awarded in the amount
13 of \$250 for the first year, 1969-70, and thereafter will be
14 awarded in an amount which will increase in each succeeding
15 year in the amount of \$100 until the aggregate amount of
16 \$1,000 is reached. The award will be made to a third year
17 law student at the School of Law, without regard to residence,
18 who demonstrates academic ability and achievement, financial
19 need, and who expresses a desire to enter into the private
20 practice of law in the State of Colorado.

21 Now, indeed, the establishment of this scholarship
22 is also a fitting tribute to our distinguished colleague,
23 Judge Breitenstein.

24 Ladies and gentlemen, this concludes our ceremony
25 this afternoon. The portrait will remain on the easel for a

1 short time and later will be hung in this courtroom. Those
2 in the spectator section of the courtroom may not have had a
3 good view of the portrait, and immediately after court is
4 recessed, those who wish may come within the Bar and observe
5 it at close range.

6 Mr. Bailiff, you may announce recess.

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9 (Whereupon, the proceedings were concluded.)

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REPORTER'S CERTIFICATE

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I, Donna G. Spencer, Certified Shorthand Reporter and Official Reporter to this Court, do hereby certify that I was present at and reported in shorthand the proceedings in the foregoing matter;

That I thereafter reduced my shorthand notes to typewritten form, comprising the foregoing Official Transcript;

Further, that the foregoing Official Transcript is a full and accurate record of the proceedings in the foregoing matter at the time and place set forth.

Dated at Denver, Colorado, this 18th day of June, 1969.

Donna G. Spencer
Donna G. Spencer
Certified Shorthand Reporter