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A SOLID MEMBER OF THE LEGAL PROFESSION

BERNIE REYNOLDS*

As it turned out, I was Judge Webb's very first law clerk. I did not really know at the time why I had been so lucky as to be chosen for the job. While I had been a fairly good law student, I was thirty-eight years old—an age somewhat beyond that of a typical law clerk. I still remember our first meeting in the judge's chambers after he was formally appointed when he looked at his wonderful secretary Linda and me and said, "Now what the hell do we do?" It was then that I realized he might have chosen me because he felt that I, as an older law school graduate, might have some more mature advice and wisdom to offer. To his undoubted chagrin, my response was something to the effect of, "I have no idea, I have never practiced law before." After these rocky beginnings, we were soon joined by a second law clerk, Jane Dynes, and before we knew it Judge Webb's court was up and running.

Our very first case was a civil arson case, which was tried to the court without a jury. This was a rather significant case involving complex pre-trial issues, numerous experts, and a significant number of fact witnesses. As it turned out, I was the clerk assigned to attend the trial and work on the opinion due to a predetermined numbering system. After about three weeks of testimony, the case was submitted to the court late in the afternoon at which time Judge Webb and I adjourned to a round of golf, followed by a late dinner and a couple of well-earned beers.

I arrived at work the next morning to find Judge Webb missing in action. Linda, Jane, and I became quite concerned because it was clearly not in his nature to forget to come to work. Our concerns were soon confirmed when we were informed by the judge's daughter that he was in the hospital with some sort of cardiac episode. Fortunately, it turned out that the episode was not too serious, but it did require about a six-week rest and rehabilitation period. What this meant for the rest of us was that for the next month and a half we did not have much to do but deliberate on a single case.

The result ended up being a written opinion that is probably unrivalled in its length and discussion of detail. I might be wrong, but I do not think there was one iota of documentary evidence or testimony, no matter how

* The author served as a law clerk to Judge Webb from 1987-1989.

minute or insignificant, that was not thoroughly discussed in that opinion. To this day, Judge Webb reminds me that I was probably the wordiest of his law clerks, a reputation which I maintain was unfairly ascribed given the circumstances of that initial case and the time I had to dwell upon it.

Judge Webb came back from the minor health blip more vigorous than ever, and I was given the opportunity to learn much from him in the two years I was on his team. As I look back, I believe that the most valuable lessons had to do with matters of character more than with the law. I still remember the very first lesson Judge Webb taught me, which was that a wrong decision is not nearly so bad as the inability to make a decision. This is a lesson that I have benefited from greatly.

Aside from his decisiveness, the primary aspect of Judge Webb's character that has most impressed me is his utter fairness. Shortly after taking the bench, he had to make decisions on cases involving the United States Attorney's office, which he had just recently headed. One might expect that he would have some retained bias, even if unconscious, toward the prosecutors he had just recently worked with. However, I detected no favoritism whatsoever, even in the earliest cases. I knew, of course, that Judge Webb was a Reagan appointee and a former subordinate to Attorney General Ed Meese. Therefore, I was pleasantly surprised to find that he was not convinced that the prosecution was always right, and that he was even tolerant of the views of a more leftward-leaning law clerk such as myself.

In my later years of practice, I have had several occasions to serve as local counsel for out-of-state attorneys who have had cases in our federal court. One of the things I am frequently asked about in that role is the risk of being "hometowned" by the local judge. In response I have always felt absolute confidence in advising that there should be no such concern, and that the judge would fairly consider their case on the merits. That confidence has always been born out by the favorable comments that out-of-state lawyers have expressed regarding their experiences with Judge Webb.

Judge Webb's character is also exemplified by a certain earthiness. I would not suggest that he does not take pleasure from the status, prerogatives, and perks that come with being a federal judge, but I can certainly say that he does not wallow in them. He has remained as accessible as he ever was to people of all stripes, and proof of this lies in the respect he gets from and gives to the people who work with and for him. I cannot tell you how many comments I have heard, from experienced and neophyte lawyers alike, that trying a case in his court is as pleasant an experience as trying a federal lawsuit can possibly be.

Those of us who have represented criminal defendants before Judge Webb are quite familiar with the lecturing he is prone to dispense along with his sentence. I have heard it said that in one particular case the lecture was longer than the sentence itself. Although these lectures are often stern and mixed with a certain amount of homespun rural North Dakota moralizing, for some reason they never seem to be demeaning or unduly harsh. The reason for this, in my opinion, is that Judge Webb sincerely believes that even the lowliest of those who appear before him are capable of redemption and are deserving of basic human respect. This attitude and tone has spread throughout the courthouse and particularly into the clerk's office, where the excellent staff is invariably cheerful and committed to making the federal courthouse in Fargo an exceptionally user-friendly place of business.

The quality of Judge Webb's character is also evident in the law clerks he has mentored since he has been on the bench. I have been fortunate to get to know most of the law clerks who followed me quite well, and have been proud to be associated with them. It is certainly not an accident that they have been very successful as people and as professionals, and have become the sort of lawyers who make practicing law a joy rather than an ordeal. I believe their success and competence is attributable not only to Judge Webb's eye for good people, but to his methods of dealing with them.

In the years that I have known Judge Webb, I have also gotten to know his family. The thing about family is that they cannot be fooled. Your family sees you as you are, even in your most unguarded moments, warts and all. If there is a chink in your armor or a flaw in your character, they will spot it. And while it is expected that your family will care for you, it is not a given that you will have their respect. In Judge Webb's case, it is plain to see that his family not only cares for him as a husband, father, and grandfather, but that they have great respect him as a man. There can be no higher praise than that.

As I write this, I am beginning to get the feeling that I am writing a eulogy rather than a tribute. This, of course, is not appropriate as Judge Webb is still quite alive and active, and I expect he will be for some time even though on senior status. I sincerely hope that he will continue to maintain a significant caseload even after his replacement is appointed, as the federal bench in Fargo would be greatly diminished by his absence. But more important to me personally, I would find that my own enjoyment of the profession would be greatly decreased if he were not actively present in the legal community.

As my final words of tribute, I just want to publicly express my personal feeling that Judge Webb is the most solid member of the profession I have come across in my fifteen years of practice. It has been my pleasure to have him as a friend and mentor for all these years, and I am greatly indebted to him for all he has done for me.