April 1996

April 1996 Docket

Georgia State University College of Law

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The Docket recently sat down with Georgia Supreme Court Chief Justice Robert Benham to talk about everything from racial issues of the day to his thoughts on being the first African-American elected to Chief Justice. What follows is an interview conducted early last week.

Docket: Tell us about the Atlanta Legal Aid Society . . . you have a very close relationship with it, and are currently spearheading a fund drive for them.

Chief Justice Benham: I worked for Atlanta Legal Aid Society 25 years ago, when I was in law school, and worked for them for about 6 months prior to my going into the military. I have always had an interest in legal services because I think how we provide representation for the poor is a measure of how viable the Constitution and the Bill of Rights are for all of our citizens. This is a very important issue, and we provide access to the system for all of our citizens. Because of budgetary, cutbacks in the national level, it is more important now than ever before that we provide legal services to those who need it, and that we provide access to the system for all of our citizens.

Docket: Could the ABA legally require law schools provide a certain number of manhours to indigent legal services in exchange for its accreditation?

Chief Justice Benham: Well, that's something I don't think that I could comment upon because courts sometimes get these very issues presented to them. But I think that that reflects the knotty issues for lawyers . . . but often we look at issues such as legal services in terms of what is required, looking at the law as being the standard of conduct. I believe the law is the lowest level of acceptable conduct. And I think as lawyers and law students, we should have a higher standard of conduct, that is not just what the law requires . . . what we must do. I think that standard should be what is expected of us as an honor society for lawyers . . . and it appears seem to me that people of an honorable profession would do something to provide legal representation for the poor.

Docket: The first thing that struck us when walking into this building was the beautiful marble basins of past chief justices, and the oil paintings of the associate justices. Do you see yourself as such an historic figure?

Chief Justice Benham: Granted, this is an historic service that I have on the Supreme Court. But I don't look at it as being any evidence of any personal accomplishment on my part. I have always felt that if I Sand Tall, I have plenty that I am because I stand on the shoulders of those giants who preceded me. The fact that I am Chief Justice says very little about me as a person, but I think it speaks volumes about this state in terms of how far we have come in that a person who is not a descendent of slaves now part of Chief Justice of the Supreme Court, as well as a dozen or more years ago, in 1846, when the state court was first established, and held its first session in Cass county.

Docket: That brings up the next question. Walking over here, you can't help but notice the tremendous statue of Governor Talmadge on the lawn of the Capitol. Net pointing specifically at him, can Georgia ever erase the judicial sins of its past? Should it?

Chief Justice Benham: I think you are a product of your past. I come to the court by way of the African-American experience. And when I talk about the history of this state, I think of my family as being a part of the difficulty of the past, and the process. I look at it as all Georgians sharing in the process, and taking responsibility for some of the difficulties in the past. You mentioned Eugene Talmadge . . . I know his son, Bob, who is a former Governor, who I consider to be a friend of mine, and I think he considers me to be a friend of his. It shows that people of good will, working together, can bring about change in spite of the fact that there were difficulties in the past. I would be a sad commentary if we saw Georgia as only being mired down in the past . . . there's nothing we can do about the past. I think the challenge for us is to learn from the past, and build on the things we have in common. So if we do that, the things that separate us will become fewer and fewer.

Docket: What have you personally learned from the past? Has your world view changed since you were in law school?

Chief Justice Benham: Of course law school has a moderating influence on people. When I was in law school, I was wide-eyed and wanted to change the world, that is how the American dream not just a dream but a reality. I came out believing that you can have progress through the courts. When I tried cases, I tried to imagine that about that progress. Actually, my view hasn't changed at all. Some people marvel at how far we've come over the years; I always thought it was because growing up in a small town and going back to Northeast Georgia to practice law . . . it was the local judge there who invited me to go back there and practice . . . it was the local bar association that elected me as President of the Bar Association . . . none of that was required by law, nobody had to do that. Within 48 hours after I opened my law office, every lawyer in town had been by my office to wish me well. Some had been by to leave me the keys to their office in case I needed to use their library. And to come on the court gave me a key to the courthouse in Cass county. Mind you this was 26 years ago, I think people saw what they should do as good neighbors and not what they should do because somebody's black or white. Again, if we concentrate on the things we have in common . . . we'll eventually minimize those things that make us different.

Docket: What influence did your family have on you?

Chief Justice Benham: My mom and dad both tell me it was nothing that my brothers and I couldn't do. This against the background of segregation, to me it was against the law for us to do a lot of things. All during my childhood, I never knew an African-American lawyer . . . but nobody in my family told me I couldn't be one. They just said, "If you wanted, you will be." We talked about going into the military . . . there was never any question but whether we would join the military . . . my dad said that "you will go to church, you will perform community service, you will go into the military, and, if necessary, you will die for your country. End of discussion." Despite problems facing this country back then, there was never any question in my family about whether we would be willing to die for our country. Not so much a sense of duty, but the view was that "all of this is for our children."

Chief Justice Benham: Oh yes. Ever abiding faith in the goodness of mankind. My mother worked two jobs, my dad had two jobs. My mom owned her own department store downtown, and my father who was a hardware merchant. My brothers who used to shine shoes ended up as field grade officers in the military.

Docket: Are your parents still living?

Chief Justice Benham: My mom died about three years ago, and my dad is still alive.

Docket: So they were able to see you rise through the ranks?

Chief Justice Benham: Yes. Both of them were able to see me become a lawyer, to serve on the court of appeals, and to come on the Supreme Court. My mom wasn't able to see me become Chief Justice, but her view was that "all of this is possible." I remember when I called her back in the 70s, and told her that I was elected as President of the Bar Association, and she said, "Oh I knew that would happen." Also, I come from a family that believes in community service. I remember my mother would cook for 2-3 days straight and then she would invite the homeless, the aged, the helpless . . . she would put the plates to people . . . and it wasn't considered unusual. That's just what you did. That is what you do in a civilized society. If a child is hungry, you don't ask how that got hungry, you just feed him. That's what we've got to get back to in this country. Not so much a sense of selflessness, but a sense of shar-
The race is on! Well like it or not, we have challenged Emory College of Law and John Marshall Law School to compete with us to raise funds for the Atlanta Legal Aid Society. I know it is nearing the end of the semester and we are all anxious to turn our attention toward the serious business of exam taking. But consider this: There are certain kinds of stress which actually enable us to perform at our very best - namely a healthy competition between schools to come to the aid of a community servant - the Atlanta Legal Aid Society.

This competition is probably the most effortless one you will have participated in, and in fact you will each win the moment you decide to participate. Let me tell you how and why this is so. Atlanta Legal Aid Society (Legal Aid) is in need of $500,000. Legal Aid serves the needs of 226,000 poor people in metro-Atlanta with 35 attorneys and three offices. The Society has suffered crippling cutbacks in funding from Legal Services Corporation, which thus far has provided more than 50% of Legal Aid's funding. Due to the reduction in funding, the Society has had to close its Cleveland Avenue office, which serviced some 2,000 clients last year. This closing ended 28 years of service to South Atlanta. Legal Aid operates offices in downtown Atlanta, as well as Dekalb and Cobb counties. Attorneys from these offices still reach to the Cleveland Avenue clients to try and meet their needs as much as possible.

To help offset the anticipated continued reduction in funding, the Society needs our financial support to maintain the quality of services they have offered in Atlanta since 1924. An October 14, 1993 article in the Atlanta Journal and Constitution estimated that the ratio of Legal Aid attorneys to the clients they serve is 1 to 7000. The article reported that attorneys have had to shift their priorities from meeting needs in certain areas of law to those requiring the most urgent counsel, such as victims of abuse or those in immediate danger. You must be asking yourself exactly what do you have to do to help Georgia State? It's as simple as this: On April 15th and 16th, donate the cost of a lunch or dinner to Atlanta Legal Aid. Representatives from the Society, along with school participants, will be on hand in the school lobby ready to give you more information about Atlanta Legal Aid and accept your donations. Student Organizations are encouraged to challenge other organizations, and maybe the faculty would accept a challenge from us. Law classes, challenge your professors. The sky is the limit of your imagination. Let's find ways to participate in this humanitarian cause. Information will be in your mailboxes the week before the two day competition. Our objective is to raise more money than Emory or John Marshall. Encourage a friend to give up his or her dinner too.

Your involvement in this spirit of challenge is crucial to its success. As the sponsor of the competition, Georgia State University will be memorialized in a small way. This is the first time the school has attempted such an avenue for fundraising, therefore we have a keen interest in assuring the drive is a resounding success. This will occur only in two instances: (1) if law students are willing to donate the cost of a lunch or dinner, or maybe two lunches or two dinners or (2) if students would rather donate an hour of time to help distribute literature at the display on April 15th and 16th.

Let's enjoy the race and invest in seeing that Georgia State University College of Law Wins! Win! Win! And remember, THE BEAUTY OF THIS PARTICULAR CONTEST IS THAT EVERYBODY WINS!!!

by Kathryn Watson
Project Coordinator

Law Review Selects New Members

During the summer break, the Georgia State University Law Review will select its new candidates from the first year class. As in the past years, the Law Review will invite the top 14 first year students to join, based upon first year grade rankings (including part-time students who have completed first year requirements). The Law Review will invite an additional 14 students to join, based upon the successful completion of a writing competition to be conducted over the latter part of the summer. The dates will be announced later, and each student will be notified by mail. By way of example, last year's competition began the first week of August and was due two weeks later.

The writing competition will require all eligible students to complete a legal note, centered around a topic that will be selected during the summer. The Law Review will select the topic, provide all research needed for completion of the paper (unlike RWA), and will distribute the materials to all interested students late in the summer. To be eligible, the student must have ranked in the upper 50% of the first year class, based on the end of first year rankings, and completed all first year law school requirements.

Additionally, all 28 students will be required to complete a Blue Book exam during the same period, before invitation into Law Review will be tendered. If there are any questions regarding the selection process or any issue concerning the Law Review, please do not hesitate to contact any Law Review member.

by Marty McFarland
Law Review Research Editor
ing. We also need to get back to solving problems as lawyers rather than going through the lengthy process of a civil suit. We also should encourage communities to solve their own problems. The best solution may lay those that are reached in court... they are the cases reached across the dinner table, the backyard fence, and across the conference table. This next decade will be the real test for this state. We have many different peoples coming into this state... different ethnic backgrounds, different religions... the test will be now we treat other people... whether we wrap them in the protection of our constitution and whether we will seek to weave them into the fabric of American life rather than to exclude them.

Docket: What qualities should a judge have?

Chief Justice Benham: You have to be open-minded, level-headed, sure-footed and firm and anchored in what the law is. If you have those qualities, then you are suited to be a judge. But those things alone will not save you from criticisms. When you decide to become a judge, you must also decide to make difficult decisions. There is a difference between a judge and being a legislator. There is a difference in the branches of government. Hopefully, when a judge makes a decision, he will be rooted in the law and the interpretation of the law rather than the public will. I think judges would like to do the things that are popular... but being a judge means that you will also do some unpopular things. That's the real test of a judge.

Docket: In what direction do you see this court going?

Chief Justice Benham: I would like to see citizens empowered to solve their problems or seek to solve them before bringing them to the courts for a solution. We need more problem solvers out in the community. And, although it spends wall of the judiciary that citizens turn to us with alarming frequency... I hope it because they have faith in the system... but I would also like for them to also have faith in themselves in solving their problems. I do not want to expand this court, but rather to use this court as a last resort, rather than a method of first resort, as we have become.

Docket: Any advice to law students?

Chief Justice Benham: I think the biggest challenge facing law students is one of improving the image of the profession. Three years ago, we had 1650 students apply for law school. Just last year, we had a little over 70,000. We have some attitudes put in society about lawyers and the role of lawyers is diminishing to me. I think that lawyers have brought about significant change, a positive change in this country... progress. We must do something, and I mean a joint effort between law students and lawyers, to restore the public's faith in the law.

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LET'S SET THE RECORD STRAIGHT:
An Open Letter to the Nation's Law Students

Dear Students,

Most law students have been trained to believe that the key to success in the legal profession is a law degree. However, the truth is that success in the legal profession requires more than just a law degree. It requires a strong work ethic, a passion for justice, and the ability to think critically.

There are many different paths one can take to become a successful lawyer. Some people go on to become judges, while others become prosecutors or defense attorneys. There are also many opportunities to work in private practice or to work for a government agency. The most important thing is to find the path that is right for you and to work hard to achieve your goals.

Legal professionals must also be aware of the changing landscape of the legal profession. With the rise of technology, the way that lawyers conduct their work has changed. Lawyers now use a variety of tools and techniques to communicate with clients and to conduct legal research.

Finally, legal professionals must be aware of the ethical obligations that they have to their clients and to the public. Lawyers must always act in the best interests of their clients, and they must always be truthful in their dealings with the court.

In conclusion, the legal profession is a challenging and rewarding career path. If you are interested in becoming a lawyer, you should take the time to explore the options available to you and to work hard to achieve your goals. With dedication and hard work, you can become a successful lawyer and make a positive impact on society.

Sincerely,

Richard J. Converse

Celebrating Over 25 Years of Excellence

Right-to-Know vs. Privacy

It's not enough that newspaper publishers these days write about everything and anything, charging an electronic media component, now they may have to reassuringly fight more than 15 years ago to keep courtrooms open to the public.

Since the late 1960's and early '80's, journalists have rarely had to fight courtroom closures. Various court decisions, including the Georgia Supreme Court's decision in R.W. Page v. Lumpkin, 292 S.E.2d 815, makes it extremely difficult for judges to close courtrooms to the public and the press. (Though the issue of letting cameras into the courtroom is more tentative. The O.J. Simpson trial and a recent experiment with cameras in Federal courtrooms has drawn mixed reviews on the subject, according to some media experts).

At least one Georgia judge is now asking the Supreme Court to uphold a closure. In a Rockdale County death penalty case, Chief Superior Court Judge Clarence R. Vaughn Jr. closed pre-trial hearings citing "highly inflammatory" media coverage of an alleged torture-slaying in the east metro county.

Vaughn's closing request was recommended to him by the high court, when asked Vaughn specifically why he closed the pre-trial hearings and why the alternation to Atlanta media was made. Page, would not work.

The R.W. Page case was about the murder of a pregnant woman by alleged husband, hired by the woman's husband and his girlfriend. A statement made by Vaughn in the question hour and announced in R.W. Page include a change of venue (which Vaughn has granted in the Rockdale case in addition to closing the hearings). Vaughn's statement said "If the public is going to be allowed to view this trial, searching voir dire and, clear and explicit instructions to the jury to consider only evidence presented in open court.

In his order (classifying his position, Vaughn means on his assertion that the "tenor" of the newspaper articles was "highly inflammatory" and not "dry recitations" of these articles, and potential future articles, will prejudice the jury pool and reframe the defendant's right to a fair trial. He says. The article time and time again shows the press, the record or from the district attorney's pretrial public state, according to the Supreme Court's decision remained.

The story, according to the defendant's alleged confession of torturing his victim.

Vaughn has already changed the venue in this case to Hall County, he yet also asserts his "assumption" that the Rockdale Citizens Newspaper's press coverage will continue them having a pervasive effect on prospective jurors and prejudicing the defendant. Vaughn also says that even though he has changed the venue to Hall County, the Rockdale Citizens' coverage will enter the Hall County and Atlanta media to also cover the event. (Does this assumption also carry with it the assumption that the Hall County and Atlanta media is their news judgment on what the Rockdale Citizens mean?)

Jury sequestration. Judge Vaughn continues, can only happen in the trial phase, which doesn't help here with pre-trial hearings. Further, searching voir dire and clear and explicit instructions to the jury are also not adequate alternatives to closing the hearings, he said. Reason: If the pre-trial hearings are kept open, the press will cover the hearings, causing the need for a greater number of potential jurors to be called, which will increase the lengthy voir dire process, thereby "delaying sequestration and increasing the chance of the jurors being exposed to publicly doing the pendency of the voir dire."

Although most jurors would take their oaths seriously, Rockdale County District Attorney Cheryl P. Custard at one recent press before the Supreme Court last month that she has been lied to by jurors in the past, and that careful jury selection was not necessarily enough to prevent jury prejudice, according to the Fulton County Daily reporters.

Judge Vaughn is articulate and emphatic in his fight for the protection of this particular defendant's constitutional rights, however the Daily Report is predicting his reasons for closure won't be enough for the Supreme Court to uphold his decision.

Lawyers, newspaper publishers, television news directors and perhaps even judges around Georgia are anxiously awaiting the outcome of this Rockdale case, knowing the high court's ruling could establish either stricter or more lenient closure standards with which they will all have to contend in the future.

Mary Hawk is a first-year law student at Georgia State
Using the World Wide Web for Legal Research

Here is a short list of web sites of interest to legal researchers. Most of the sites listed below contain further links to other web sites. If you do not have access to the world wide web at home, you can use the CATALINO stations (see related article) in the OLLI alcove of the Law Library or the main computer labs on campus.

If you have a home computer with windows and a modem, find out how you can log onto the Web from home! See Nancy Deed, Electronic Services Librarian, or Jason Puckett, lab consultant for instruction on Netscape.

Never been on the WEB? See Nancy Deed, Electronic Services Librarian, or Jason Puckett, lab consultant for instruction on Netscape.

HAPPY SURFING!

REALLY GOOD starting places:

“Legal Research” by Villanova
URL: http://www.law.vill.edu/VCLP/legalweb.lawschools.html

“The Virtual Law Library Reference Desk” by Lisa Hotzhausen
URL: http://law.wuacc.edu - follow link to “REFLAW”

“The Legal List” by Eric Hoels
URL: http://lawlib.wuacc.edu/washlaw/reflaw/refheels.5-1

“How do I Find... Law-Related Internet Resources” by Cindy Chick
URL: http://law.wuacc.edu/scarl/ sources.html

“Meta-Index for Legal Research” by Patrick Wiseman
URL: http://www.gsu.edu/~lawadmn/lawform.html

“The WWW Virtual Library - Law”
URL: http://www.law.indiana.edu:80/law/lawindex/html

“Guides to Law-Related Resources” by St. Louis Univ. School of Law
URL: http://lawlib.slu.edu/mics/topical.htm

“Yahoo - Law”
URL: http://www.yahoo.com/law

“Inter-law’s Ectric Law Library”
URL: http://www.inter-law.com

Georgia Law Libraries:

GSU http://www.gsu.edu/~lawadm/lawlibrary
EMORY http://www.law.emory.edu/LAW/law.html
UGA http://www.law.scu.uga.edu

Other Law Libraries:

Chicago-Kent College of Law http://www.law.kent.edu
Cornell Law Library http://www.law.cornell.edu/library/default.html
Emory Univ. School of Law http://www.law.emory.edu
Indiana Univ. School of Law http://www.law.indiana.edu
Saint Louis Univ. School of Law http://lawlib.slu.edu/home.htm
Villanova Center for Info. Law & Policy http://ming.law.vill.edu/VCLP.html
Washburn Law School, “Washlaw” http://law.wuacc.edu

Government sites:

US Congress http://thomas.loc.gov
White House http://www.whitehouse.gov


Contributed by Rhea Ballard-Thrower

Who Is Joe Phillips?

The recent movie The Usual Suspects had audiences asking the question, “Who is Kaiser Soze?” However, the third year students have recently been asking another question: “Who is Joe Phillips?”

Joe Phillips is an ideal towards which we are all striving. Joe Phillips is a frame of mind. Joe Phillips is not so much a person as Joe Phillips is a movement; a mutual consciousness realized from the collective dreams and desires of people suffering through the same struggle. When a 3L closes his or her eyes and imagines a brighter tomorrow, surely they are picturing some form of Joe Phillips.

Although we can pinpoint the actual day and time that Joe Phillips was first discussed out loud, we can never really determine when Joe Phillips actually began. There was a lunch-time conversation in the cafeteria, some notes passed in class, hushed talks in the hallways, late-night phone calls - but can we actually say that Joe Phillips never existed prior to those fleeting moments? Which leads to the inevitable question: Is Joe Phillips a reality? Much like the way a law school professor answers a student’s query in class, the best way to answer this question is with further questions: Is this relevant? Do we really want to know the answer?

Some lonely Sunday evening, your phone might ring, and it might be nothing more than a wrong number. Or, it might very well be Joe Phillips. Or it could be both. Will you answer the phone? That is the question whose answer will separate you from your classmates for the rest of your life.

It is destined that one among us in the 3rd year class will have the good fortune to one day meet Joe Phillips. All of the hopes and fears of the 3Ls will be with this lucky soul upon that day, as she enters the magical, mystical realm of Joe Phillips. She has had the courage to answer the phone - will you?

We're Sorry!

In the last issue of The Docket we congratulated the new Law Review Editorial Board, but we mistakenly left off the new position of Symposium Editor . . .

Congratulations Kim Dammers!

Editor's Corner...

The Docket is still looking for a few individuals to fill several editorial spots for next year. You may have noticed that this issue is half the size of our normal issues, and this is directly attributable to a pervasive lack of enthusiasm on behalf of our student body for this publication. Over the past few months, we have taken The Docket from a relatively small, xeroxed edition to a fairly well-organized printed newspaper. With this progress, we have attracted attention from the faculty and from advertisers wanting to contribute to what you read each month. Yet progress has been a double-edged sword. While the new format has allowed for more material to be included, the same number of students are responsible for its publication.

In short, we cannot continue to publish a law school newspaper if no more than two or three students out of 584 contribute to its publication. It is simply too much work. However, with a staff of six or eight, each editor would have no more than 2-3 hours of work assigned to them each month. If you are interested, drop a note in Box 577.

Okay, off my soapbox. It’s summertime! I hope that each and everyone of you have a productive and relaxing summer . . . I think it’s much needed at this point. Take care, and good luck to everyone on finals.

-Joe Wyant