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A TRIBUTE TO THE HONORABLE PHYLLIS A. KRAVITCH

Joseph Hoffmann[†]

When I first heard, in December, that Judge Kravitch would soon take senior status, I experienced a jumble of emotions. On the one hand, I was saddened by the realization that this was truly a “changing of the guard,” at least in terms of the Eleventh Circuit. After all, of the twelve original appointees to that court, Judge Kravitch is one of only a handful who are still hearing cases, and I am certain that her decision to step aside (at least as an active member of the court) will leave a hole that cannot possibly be filled. On the other hand, I was pleased at the thought that Judge Kravitch would finally—perhaps—be able to slow down a little bit, and even—maybe—take a hard-earned vacation from time to time. I was also pleased at the prospect that Judge Kravitch might now be able to spend more of her time in Savannah, where she has lived for most of her life, and where there are still many people she holds dear.

Surely there cannot be many judges more deserving of such a break than Judge Kravitch. Long ago, she earned her rightful place among the most respected members of the federal bench. Her intellectual vitality, her legal expertise, her professionalism, and her dedication to the fundamental principles of justice are beyond dispute. Most of these characteristics, I feel certain, were first acquired during the time when Judge Kravitch practiced law in Savannah with her father. Judge Kravitch did not speak often about her father during the year I clerked for her, but I know that she was extremely proud of him, and of his career as a lawyer who consistently fought the “good fight” for justice. I also know that he would have been just as proud of her, and of the way that her judicial career has reflected those same deeply held values and beliefs.

Many people, especially in recent years, have taken to calling Judge Kravitch a “liberal.” (This is intended, I think, to be a pejorative term.) These days, I am really not sure what the term

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means, but I do know, beyond a shadow of a doubt, that Judge Kravitch would bristle at the notion that anyone would dare try to capture her jurisprudential views as a single word.

Besides, in my experience, the label does not ring true. For example, Judge Kravitch is no "liberal" when it comes to the subject of judicial restraint. Because I went on to clerk for U.S. Supreme Court Justice William H. Rehnquist the year after I clerked for Judge Kravitch, I am often asked to compare the two. To put it more bluntly, I am often asked a variation of the following question: "Was it difficult to clerk for a 'conservative' like Justice Rehnquist, after clerking for a 'liberal' like Judge Kravitch?" My standard response is that the two are more similar than most people might think. Judge Kravitch, like Justice Rehnquist, believes strongly in judicial restraint. Indeed, I never saw a single case in which Judge Kravitch reached out to decide an issue that was not properly before the court. For example, in *Bowers v. Hardwick* (the controversial 1980s Georgia sodomy case), I suspect that Judge Kravitch's personal views were similar to those of her close friend and colleague, Judge Frank Johnson of Alabama, who wrote the lead opinion striking down the Georgia statute. But Judge Kravitch thought (correctly, I believe) that a prior Supreme Court summary affirmance in *Doe v. Commonwealth's Attorney* (a Virginia sodomy case) precluded the Eleventh Circuit from reaching the merits of the Georgia statute, so she was compelled to write in dissent of Judge Johnson's decision. Ultimately, the Supreme Court granted certiorari in *Hardwick*, thus rendering moot the dispute over the significance of *Doe*. But the case nevertheless demonstrates Judge Kravitch's integrity as a jurist; she simply refused to allow her own views about the merits of the case influence her resolution of the procedural issue concerning *Doe*. Few judges, I suspect, would have been as strong.

What sets Judge Kravitch even further apart, I believe, from many of her colleagues on the bench is the way that she has consistently been able to integrate her feelings and experiences—her humanity, if you will—into her judicial persona, without ever allowing those feelings and experiences to dominate her or overcome her sense of balanced judgment. From the start of her legal career right up to the present day, Judge Kravitch—as a Jewish woman—has suffered the sting of discrimination. She attended the University of Pennsylvania because other Ivy League law schools, at the time, would not

accept women. Despite graduating at the top of her class, she could not get a job with the top East Coast law firms. She even interviewed for a Supreme Court clerkship, only to be told by the Justice who interviewed her that he did not want to be the first Justice to hire a female law clerk. Moreover, this kind of insult did not disappear as she rose through her chosen profession. It must have greatly rankled Judge Kravitch that, for many years after being appointed to the Eleventh Circuit, she was chosen to serve on only one of the numerous standing committees of that court—namely, the building decoration committee, which had the responsibility for such momentous decisions as selecting the wall coverings for the offices and hallways in the old Atlanta courthouse.

I never heard Judge Kravitch express any bitterness over such matters—although such a reaction would surely have been justified. These experiences (and many, many others) sensitized Judge Kravitch to the problems of discrimination in employment, fair housing, and voting rights cases, but they never predetermined her votes in such cases. Rather, she always succeeded in achieving a most difficult balance: empathizing with the personal stories of the litigants in a case, while always respecting and following the principles of law that she had sworn to uphold.

Although Judge Kravitch has been based in Atlanta for a number of years now, I will never be able to think of her as belonging anywhere but Savannah, despite the fact that I first met her in Atlanta—she was sitting on a panel there when I interviewed with her for a clerkship in the fall of 1983. Even before that first meeting, I learned a lot about Judge Kravitch's empathetic nature. I was a third-year law student at the University of Washington in Seattle when I received the call to interview with Judge Kravitch. Of course, I was thrilled to have a chance at landing a clerkship with her, and immediately agreed to the interview. But Judge Kravitch was concerned about the amount of money I would be spending to fly all the way to Georgia for just one interview. So she asked me whether I would mind if she arranged a few extra interviews for me, with some of her colleagues in Atlanta (to whom, by the way, I had never applied). Within a few days, she had set up two other interviews for me. In the end, however, I never made it to those interviews—by 9 AM on the morning after my interview with Judge Kravitch, I was the happiest man in Atlanta, having

received (and accepted) the offer that would bring me and my family to Savannah.

Ah, Savannah! From my first day there, Judge Kravitch seemed as much a part of the essence of Savannah as pralines from River Street Sweets, Mrs. Wilkes's Boarding House, Palmer's Seafood Restaurant, and the St. Patrick's Day Parade. You just cannot go anywhere with Judge Kravitch in Savannah and not have people constantly walk up to her to say hello or shake her hand. I can only hope (a futile hope, I am afraid) that my life will someday touch as many people as Judge Kravitch's obviously has.

In that context, I want to close by mentioning one of my most special memories of the year I clerked for Judge Kravitch. My first child, Becky, was born in February of my third year in law school, and upon our arrival in Savannah she became the first "office baby" of Judge Kravitch's tenure. The Judge, in turn, became Becky's surrogate grandmother. I will never forget the many afternoons when Mary, my wife, brought Becky to the office, and the way that Judge Kravitch doted on my daughter. Judge Kravitch and her mother (who was then, I believe, approaching ninety years old) even baby-sat for Becky (who was teething at the time and hardly a tranquil baby), so that Mary and I could enjoy an evening on the town. We have returned to Georgia to see Judge Kravitch on numerous occasions, and, although Becky does not remember my clerkship year, my daughter has since acquired an appreciation for the unique relationship she shares with Judge Kravitch. I am glad that both of my daughters, and all of the other daughters in the world—as well as my son and all the other sons—can have a role model as wonderful as Judge Kravitch.

Judge Kravitch, I wish you well as you take senior status. I also sincerely hope that you will follow the precedent set by another of your close friends and colleagues, the late Judge Elbert Tuttle, and will continue to serve often and with distinction for many years as a senior member of the Eleventh Circuit. That way, the Eleventh Circuit—as well as the rest of us—will continue to benefit from your wisdom and your heart. Good luck!