

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

PRINCE GEORGE'S COUNTY BAR ASSOCIATION

MEMORIAL SERVICE

FOR

FRED WARREN BENNETT

G. R. HOVEY JOHNSON

ERNEST A. LOVELESS, JR.

DAVID S. WHITACRE

THURSDAY, NOVEMBER 15, 2007

3:00 P.M.

COURTROOM 3400

COURTHOUSE

UPPER MARLBORO, MARYLAND

Cindy S. Davis

Official Court Reporter

M E M O R I A L T R I B U T E S

P A G E

Fred Warren Bennett

5

(By Gary E. Bair, Esquire)

G. R. Hovey Johnson

10

(By Bruce L. Marcus, Esquire)

Ernest A. Loveless, Jr.

18

(By the Honorable C. Philip Nichols, Jr.)

David S. Whitacre

22

(By Mary C. Crawford, Esquire)

P R O C E E D I N G S

The Court convened en banc at 3:00 p.m., there being present the Honorable WILLIAM D. MISSOURI, Chief Judge; GLENN T. HARRELL, Court of Appeals; JAMES P. SALMON, Court of Special Appeals; LARNZELL MARTIN, JR., Associate Judge; THOMAS P. SMITH, Associate Judge; SHERRIE L. KRAUSER, Associate Judge; SHEILA R. TILLERSON-ADAMS, Associate Judge; TONI E. CLARKE, Associate Judge; MAUREEN M. LAMASNEY, Associate Judge; RONALD D. SCHIFF, Associate Judge.

JUDGE MISSOURI: I want to first say good afternoon to everyone and want to welcome you here to the Special Session of the Circuit Court for Prince George's County.

First and foremost, I would like to recognize resident Court of Appeals judge, the Honorable Glenn T. Harrell, Jr., and our resident Court of Special Appeals judge, the Honorable James P. Salmon, and, sitting with them, is our retired judge, Teresa Allen Nolan, and someone who has to run for office again, the Honorable Larnzell Martin, Jr. I'm sure he's thrilled to have to go through this one more time.

I would note that this is a special occasion for some of you and, certainly, a special occasion for our former county attorney, our former everything in the county, and that's Barbara Loveless Holtz. And we're so happy that you decided to bring your husband, Judge Holtz, along with you to

1 drive the car. We're happy that you're here.

2 I was told that Councilwoman Bland was coming. I
3 do not see her presently, she and her chief of staff,
4 Dr. Billingsly.

5 Is Ms. Boswell here? Ms. Iris Boswell? She was
6 also supposed to be here.

7 Anyway, I recognize, also, all of the judges who
8 are not sitting, particularly Judge Nichols, who will be
9 presenting today, who is in charge of our juvenile court, and
10 the judges on this bench are -- I hope you recognize all of
11 them, Judge Adams, Judge Krauser, Judge Smith, Judge Schiff,
12 Judge Lamasney, Judge Clarke.

13 Today we are gathered, as we have for many years,
14 to honor our colleagues, associates and friends that have
15 passed on. The Court is honored to welcome family, friends
16 and guests of those that we are here to remember today. We
17 are paying tribute to Fred Warren Bennett, the Honorable G.
18 R. Hovey Johnson, the Honorable Ernest A. Loveless, Jr., and
19 David S. Whitacre.

20 At this time the Court will recognize the president
21 of the Prince George's County Bar Association, John C.
22 Frederickson.

23 MR. FREDERICKSON: Thank you, Your Honor. Good
24 afternoon and welcome. Welcome judges of the Court of
25 Appeals, judge of the Court of Special Appeals, judges of the

1 Circuit Court, judges of the District Court, elected
2 officials, members of the bar, family and friends of the
3 departed. Welcome, all of you, to the annual Prince George's
4 County Bar Association Memorial Service.

5 We gather each year at this appropriate time to
6 acknowledge the contributions made by attorneys and judges to
7 our legal community. We come together in this ceremonial
8 courtroom, in this great courthouse, to celebrate and give
9 thanks to members of the bar who have left this life, for
10 each of them contributed greatly to our legal community and
11 to the lives of those around them.

12 Thank you for being here today in their honor.

13 Judge Femia.

14 JUDGE FEMIA: Thank you, John. Chief Judge
15 Missouri, colleagues, it's my assignment here this afternoon
16 to introduce to you the various individuals who will be
17 offering memorials to our departed brethren. This year we're
18 fortunate; there's only four. Having done this for as many
19 year as I have, this is the lowest number that we've had --
20 which, I think, bodes well for them taking seriously my
21 warning last year that they better damn well stay healthy or
22 I'll write their memorials.

23 The first lawyer we're going to welcome will be
24 Gary Bair on behalf of Fred Warren Bennett. Gary.

25 **MEMORIAL TRIBUTE ON BEHALF OF FRED WARREN BENNETT**

1 MR. BAIR: Thank you, Judge Femia. Chief Judge
2 Missouri, Judge Harrell, Judge Salmon, and other
3 distinguished judges, thank you for having me here today.

4 I first met Fred Bennett almost 30 years ago. The
5 year was 1979. I was a young, relatively inexperienced
6 attorney. I had finished an appellate clerkship in this
7 courthouse -- or in the old courthouse, I guess it was, with
8 Judge Dicks. I had worked for two years as a supervising
9 attorney in the Criminal Justice Clinic at American
10 University, Washington College of Law, and I wanted to get
11 some trial experience.

12 Having supervised students in both Prince George's
13 and Montgomery County with the clinic, I thought I had two
14 options. One was to work with the Public Defender's Office
15 in Prince George's County, with Fred Bennett, and the other
16 was to work in the State's Attorney's Office in Montgomery
17 County, with Andy Sonner, and in a decision that some might
18 question, I chose to work with Fred, rather than with Andy,
19 and I never have regretted that decision.

20 Now, as it turns out, I only worked with Fred for
21 about a year in the Public Defender's Office because, in July
22 of 1980, I went back to the criminal clinic and then on to
23 the Attorney General's Office in Baltimore for the next 21
24 years.

25 And, coincidentally, that same month -- I don't

1 think they were related; I think it was pure coincidence --
2 Fred also left the Prince George's County Public Defender's
3 Office to become the federal public defender for the District
4 of Maryland, and that was a position that Fred held for 12
5 years. Those are what I would call Fred's Baltimore years,
6 but his Prince George's County roots ran very deep.

7 Now, Fred was born on June 15, 1942, in Bay City
8 Michigan; lived there through high school. He came to this
9 area for college. He first attended American University and
10 then attended law school at George Washington University.

11 His early legal career was spent with law firms in
12 Washington, D.C., but he soon migrated to Prince George's
13 County both to live and to work. He and his wife Susan --
14 Susan is here today with us -- they raised their two
15 daughters in Prince George's County, Melanie and Stephanie,
16 and Fred was a partner with the firm of Goldstein, Ahalt and
17 Bennett in College Park from 1975 to 1980.

18 As I mentioned, Fred was also the county public
19 defender from 1978 to 1980. During those years, even when he
20 was working in Baltimore, he continued to live in Prince
21 George's County.

22 Fred left the federal public defender's office in
23 1992, and was then a professor at Catholic University from
24 1992 to 1998.

25 After he left teaching at Catholic, he continued to

1 teach as an adjunct professor at American University's
2 Washington College of Law, and Fred taught, I guess, an
3 entire generation of students trial practice, evidence,
4 criminal law, criminal procedure. I've talked to his former
5 students and they all, without a single exception, say Fred
6 was an amazing teacher, changed their lives, made a lasting
7 impression on them, and I have no doubt about that.

8 I guess it would be close to two generations of
9 lawyers, who worked with Fred, say the same thing. Likewise,
10 prosecutors who litigated against Fred, judges who presided
11 over cases that Fred tried, I think they also were better for
12 having the experience of either working with Fred, against
13 Fred or having trials with Fred.

14 Fred was a unique person and a unique lawyer. Let
15 me just throw out a few words: Creative, highly
16 intelligent -- I would say highly intelligent; not just
17 merely intelligent -- zealous, tenacious, dogged, persistent.
18 These are but some of the words that I have used, and others
19 have used, to describe Fred, and I think his clients would
20 say the same thing and add deeply caring as well.

21 Fred's legal career ended where it started,
22 basically, in private practice in Prince George's County. He
23 came back to private practice full time in 1998, first with
24 Larry Nathans, then with Mike Lawlor and, finally, with me in
25 2004, and my profound regret is that the partnership ended so

1 soon. Nobody was ready for this. Fred had just turned 65
2 two weeks before his death.

3 Actually, I was out of town with my wife. This was
4 July 1st of this year. We got a call, on a Sunday afternoon,
5 from Michael Pearson. Mike was then an associate in the
6 office. Now he's back at the state's attorney's office here.
7 He's one of Fred's former students, and Fred had been killed
8 in a car accident that day.

9 Interestingly, just two weeks earlier, Fred's last
10 trial was in this courthouse, a two-week trial. Fitting that
11 it was his last trial here.

12 After Fred's death, it was a shock to everyone, a
13 shock to the law firm, a shock to the family. The outpouring
14 of emotion was just amazing, for calls from Chief Judge Bell,
15 former attorney general Joe Curran, Governor O'Malley's legal
16 counsel Ralph Tyler, state judges, federal judges. The
17 outpouring was just amazing. Students, former students.

18 We lost a giant in the bar. We really lost a giant
19 in Fred Bennett, and it's just too soon for all of us, again,
20 particularly for those who were so close to him. As I said,
21 Fred was just 65 when he was taken from us, and it may be
22 another 65 years before we see someone as creative, as
23 intelligent and as zealous as Fred.

24 Thank you.

25 JUDGE FEMIA: Thank you, Gary. Next, I'm going to

1 call on Bruce Marcus to offer a memorial to a man who was a
2 dear and close friend to everybody here and one who is
3 sorely, sorely missed by all.

4 **MEMORIAL TRIBUTE ON BEHALF OF G. R. HOVEY JOHNSON**

5 MR. MARCUS: Chief Judge Missouri, judges of our
6 appeals court, judges of our circuit court.

7 As we reflect this year and in years past, one of
8 the things that has always struck me about this event is our
9 inability to, within a very short period of time, literally
10 minutes, to reflect and remember the lives of the marvelous
11 people who have graced us with their presence. They showed
12 us poise, they showed us dignity, and they made all of us
13 better for having known them. The simple answer is that a
14 service like this really cannot serve to recap the lives of
15 the people who have touched us.

16 In Hovey's case, Judge Loveless, Dave Whitacre,
17 Fred Bennett, these are people who we all admire, people we
18 will all remember and people who made all of us better.

19 I am here to talk about Hovey, but the story could
20 as easily be told about Hovey as the other three people.
21 Everyone in this room, no doubt, has Hovey stories. He was
22 an interesting person, and everyone here would be able to
23 tell you at least an hour or two about some experience that
24 they had with Hovey. He was, indeed, a controversial guy.

25 As I came down here this afternoon and had prepared

1 my remarks, not realizing that we were going to have a
2 brochure that, basically, had written out my speech -- and
3 I'm going to attempt not to go over this whole thing -- but I
4 thought back on something about Hovey that made him so
5 attractive as an individual and so remarkable as a man.

6 Everybody in this room knew him. This is really
7 family. This is Upper Marlboro. The thing about Hovey was
8 that, by the time he was 47, he had completed a full and
9 complete military career, a career that, for most people,
10 would have been enough, a career that was filled with awards,
11 with commendations. They are found in the written materials
12 that I'm going to talk to you a little bit about in a second.

13 But, at 47 years of age, he began to practice law
14 and, at 47, he had joined a ragtag bunch of public defenders
15 over by the railroad tracks off of 202 and learned how to
16 drink beer out of green bottles in the afternoon and learned
17 how to defend the indigent and was doing the work that had
18 been previously relegated to young Turks. He was certainly a
19 different type. He was not the prototypical public defender.

20 I thought that, for a man who had been able to have
21 two full, complete and successful careers, what a strange,
22 strange world it was, at least for those of us who got to
23 know him. A Vietnam veteran, a colonel who had commanded a
24 battalion in Vietnam, a ranger, a Green Beret. He had
25 ordered his troops into battle. He had ordered people to

1 places where they left their lives on the battlefield. He
2 served his country, as a military attache, in times of peace.
3 His career in the military was absolutely fascinating.

4 And here he came, in 1977, as an intern and,
5 ultimately, as an assistant public defender. How ironic it
6 is, tragically ironic, that, in 1979, Fred Bennett came to me
7 and he said, "I'm going to hire you as an assistant public
8 defender, but I got to hire this guy named Johnson; I don't
9 know who he is; he's almost 50; he was a colonel in the Army
10 and, obviously, I can't believe they're making me do this; I
11 don't think he's going to work out."

12 Well, as Gary said about Fred, Fred also had some
13 very unusual qualities, and Fred was partly right. Fred was
14 gone six months later and Jim Kenkel took over. Hovey, in a
15 very, very short period of time, established himself as one
16 of the finest trial lawyers that any of us had ever seen.

17 His career as a trial lawyer, as an assistant
18 public defender, was brief in the scheme of things. He
19 started in 1979, about ten days before I did, and he
20 joined -- at least looking in this room -- Maureen Lamasney
21 and other members of the public defender's office who we
22 worked with for those three years and forged relationships
23 and bonds that exist to this day.

24 He formed friendships with his opponents in the
25 state's attorney's office. And, when he appeared in court on

1 behalf of an indigent defendant, his presence in the
2 courtroom was something that we had not seen. He had total
3 credibility with the jury. He had a presence and an aura
4 that was unlike anything that anyone in the public defender's
5 office had ever seen.

6 And so he finished his career as a trial lawyer and
7 was asked to join this bench as an associate member of the
8 Court. And as we think back, this is a man with two
9 complete, full, successful careers. How very unusual.

10 And what was the reason for that? The reason for
11 that is Joan Crocker Johnson, Hovey's wife, who is here
12 today. I would like to at least recognize the family who are
13 here today. Joan, if you would, just put your hand up.
14 Everybody knows Joan.

15 In addition to Joan, there were three other
16 influences who shaped the man that we knew. Marjorie
17 Johnson. Marjorie is here from Colorado. Kevin will be here
18 later this week to celebrate, with the family, Hovey's life,
19 as we are coming up on the one year anniversary. And the two
20 children of Kevin and Marjorie, Austin and Cashmere, who
21 were, obviously, very important to Hovey.

22 Patti Perez and her husband Noel are here. And,
23 obviously, from that marriage were Gabriel and Victoria, also
24 extremely important to Hovey.

25 And Julie and George, who are in the front row.

1 Everybody knows George as George. He's Hovey to those in the
2 family, and I've always called him Hovey because that's what
3 his father called him. Hovey is obviously with Maryland
4 National Capital Park and Planning.

5 Who was Hovey Johnson? Seventy-seven years ago, on
6 November 13, 1930, he was born in Richmond. He was a product
7 of the Richmond public schools. Following graduation, he
8 pursued his degree at Prairie View A&M College in Prairie
9 View, Texas. He graduated in 1951 and then enlisted in the
10 United States Army.

11 He served in the Army from 1951 to 1974, retiring
12 as a colonel. As I indicated, the distinctions and
13 commendations that he received are just too numerous to
14 describe, including the Distinguished Flying Cross,
15 Meritorious Service medals, Air medals, Bronze Stars, Joint
16 Services commendation medals, and an Army commendation medal.
17 He served in southeast Asia, as I've indicated, Special
18 Forces, and he was a parachutist.

19 In 1979, when Hovey joined us, we all knew that
20 Hovey was destined for higher office, and when he was tapped
21 to join the bench, it began to change the way that most of us
22 looked at things.

23 In 1982, when he ran for office, some of you will
24 recall it was a rather contentious time, a rather contentious
25 election. Judge Smith, in one of his prior lives, led a

1 group of people to campaign and literally changed, in many
2 respects, the way that Prince George's politics has become
3 from 1982 to the present. The world had changed with Hovey
4 Johnson. He was a county-wide candidate and, ultimately,
5 after a primary, was elected in the general election.

6 He was, as a public defender and a judge, one of
7 the most zealous advocates for the constitutional rights of
8 an accused. For those of you that may have had occasion to
9 have him give jury instructions, you knew that there was no
10 one in his courtroom, or any other courtroom in the building,
11 that did not hear the jury instructions that he gave.

12 Judge Johnson's penchant for the 5th Amendment
13 right of an individual not to testify and the right of a
14 defendant to be proven guilty beyond a reasonable doubt were
15 two instructions that prosecutors would cringe on hearing,
16 because Judge Johnson almost challenged the jury in each case
17 to acquit the man because it was impossible for anyone to
18 have proof beyond a reasonable doubt, given the instruction
19 and the tenor and the way that Hovey would deliver the
20 instruction.

21 The right to not testify was almost tantamount to a
22 demand that a defendant be acquitted for not testifying. How
23 dare the government prosecute a man and make him come to
24 court and then not have to testify. It all equalled an
25 acquittal. For prosecutors, that was the bad part of the

1 equation.

2 For defense lawyers, you had better have won the
3 trial, because the tables would turn in the event that the
4 jury did not see it the way that the defendant presented the
5 argument.

6 Hovey was known as a long-ball hitter. In fact, in
7 Hovey's case, sentences in this court probably had fewer
8 numbers than they did letters. Usually, they began with the
9 word l-i-f-e. In Hovey's case, he would ensure that a
10 defendant would have a fair trial but, at the end, made sure
11 that, in his mind, justice was served.

12 There are a lot of people who are here today who
13 benefitted greatly from Hovey's counsel. Hovey was a person
14 who, I would dare say, looking around this room, everyone at
15 some point or other received the benefit of friendship from.
16 He was a person who was open, who was welcoming. He was a
17 person who would be a friend to you at a time when being a
18 friend was sometimes a little difficult. With Hovey,
19 friendship was a two-way street. If he was your friend, he
20 was your friend forever. That's just simply the way it was.

21 He served on this court until a couple of years
22 ago. After the age of retirement, Judge Missouri recognized
23 the worth and value of this man and had him sit even beyond
24 the age of mandatory retirement, serving the Court and the
25 citizens of his community.

1 Hovey had a phrase that he used probably from the
2 time that we all met, and that was that you didn't need to
3 tell Hovey when it was time to quit; he would know. And when
4 it was time to retire, what he told us was he would gather
5 his belongings, turn out the light and close the door.

6 When he retired from the Court, that's exactly what
7 he did. He came in, took his belongings, turned off the
8 light and closed the door. No pomp; no circumstance. And
9 that was basically the way he lived.

10 I would suggest to everyone that we celebrate his
11 life for all of the accomplishments that he has. The man was
12 truly one of the great enigmas that we will ever see. There
13 are not too many people who served in Vietnam as a colonel,
14 who had the dubious distinction of being the uncle to
15 Eldridge Clever, a fact that most people did not know. So if
16 you take a look at this man and all his accomplishments and
17 all of the things that he did in his lifetime, all of the
18 good that he did for all of us, we are truly blessed to have
19 had him and, obviously, very sorry that he is gone.

20 Thank you.

21 JUDGE FEMIA: Now, at this point, ladies and
22 gentlemen, I must apologize for a misprint. In the third
23 line in Hovey's memorial, I have him expiring on November 20,
24 2007. That's an obvious misprint and I am to blame for that.
25 I apologize. It was 2006.

1 That said, I'm going to call upon Captain C. Philip
2 Nichols, currently doing part-time work on this bench,
3 memorialize our dear, dear friend, the Chief.

4 **MEMORIAL TRIBUTE TO ERNEST A. LOVELESS, JR.**

5 JUDGE NICHOLS: This could be a two bottle event
6 for me. Chief Judge Missouri, colleagues, friends and
7 family, Barb and Larry, Commissioner Pat Loveless.

8 "To everything there is a season, and a time to
9 every purpose under the heaven; a time to be born and a time
10 to die; a time to plant and a time to heal; a time to weep
11 and a time to laugh; a time to mourn and a time to dance."

12 Sadly, Chief Judge Loveless left this world on
13 August 5, 2007. Happily, for all of us, the citizens of this
14 State and for his family, including his courthouse family, he
15 left it a much better place.

16 He was trained as a teacher and he was always a
17 teacher to us.

18 He cared greatly about Clinton -- that would be the
19 city; I don't know if he had strong feelings about the
20 candidate -- Prince George's County and the State of Maryland
21 and, most of all, his country. He was the ultimate "hometown
22 boy makes good." At the time of his retirement, he was the
23 Dean of the Maryland Judiciary. For all of us who worked
24 with him, around him and under him, he was the authority
25 figure that none of us ever wanted to disappoint. He brought

1 out the best in all of us and, for that, he was beloved, not
2 just here but around this great state.

3 Perhaps Steny Hoyer, the now majority leader of the
4 United States House of Representatives, said it best in 1992
5 when he said, "Judge Loveless could speak to the meek as well
6 as he could the mighty."

7 He will always be remembered as the one who led the
8 way, whether it was bringing the psychologist into the
9 courthouse, making us nationwide leaders in technology, and
10 even making the first known study of case flow management in
11 our system. I was there that day, and he sent me to the drug
12 store to buy big poster boards to see who touched a case from
13 beginning to end, and I think that started a great science in
14 our business.

15 His life had challenges that few of us had to
16 endure. He overcame polio to serve as an officer in the
17 United States Navy during World War II. He truly was in that
18 front rank of Tom Brokaw's "Greatest Generation." He was as
19 proud to wear the Navy blue and gold as he was the robe of a
20 judge.

21 He actually served under the legendary Captain
22 Newton White, the commanding officer of the United States
23 ship Enterprise. Then Ensign Loveless served under Captain
24 White at Floyd Bennett Field in New York. Perhaps Captain
25 White recognized his ability to deal fairly with people when

1 he made Ensign Loveless the race relations officer. When
2 given his new charge, he answered up and said, "Aye, aye,
3 Captain."

4 As a judge, he had that quality of judicial
5 temperament that all of us strive for. He was unflappable,
6 no matter what.

7 Years ago our courthouse was not air-conditioned,
8 and it was his secretary Louise Ireland's job to open the
9 windows in his corner office for proper ventilation. One
10 morning, Louise dutifully threw open the windows when a wasp
11 somehow managed to find its way into her blouse and, yes,
12 forgive me, her bra. It proceeded to sting her in a very
13 sensitive place.

14 Next through the door came his law clerk, Mike
15 Trainor, better known as Sugar Ray Leonard's lawyer. Louise
16 had Mike unbutton her and, no sooner had her blouse and bra
17 hit Judge Loveless's desk, when the judge walked in. He
18 found his secretary half naked, his law clerk standing there
19 with his eyes closed. Unflappable as ever, the Judge was
20 heard to say, "You all finish whatever you're doing here and
21 I'll just come back later."

22 Judge Loveless was an avid goose hunter, as you
23 know. There was actually a time around here when you could
24 get a case continued to go goose hunting. Once, on opening
25 day of goose hunting season, the Loveless 9 managed to get

1 cited by the federal game warden. Deputy Sheriff Chris
2 Ephraim's 12-year-old son was the only one able to escape the
3 long reach of that federal writ. The charge, hunting over a
4 baited pit.

5 This did not sit well with the Judge, I can assure
6 you. Even though he couldn't have gone hunting that day, he
7 probably would have been a codefendant had he been there.
8 Judge Loveless wrote a long letter to Chief Judge Frank
9 Kaufman of the United States District Court. Not exactly a
10 warm, wonderful guy, as I remember. He asked me what I
11 thought about the letter. I said, "Sir, if somebody sent you
12 that letter, you would send them to the grand jury." He
13 replied, "I'm going to send it anyway." He did. The charges
14 were dropped against the Loveless 9 and then preferred
15 against the farmer who owned the field.

16 He once lamented to me that perhaps his life would
17 have been much better had he been a goose guide on Maryland's
18 Eastern Shore and done something for the environment.
19 Whether he was the Dean of the Maryland Judiciary or a goose
20 guide, he would have been good at anything. He was a judge's
21 judge and a man for all seasons.

22 He often quoted Longfellow. "Man's steps are but
23 footprints on the sands of time.

24 Thank you Chief Judge. Thank you all.

25 JUDGE FEMIA: See, I told you you could make it.

1 You don't know what it took to get him to do the memorial.
2 Every time I suggested he was the person for the memorial, he
3 would well up. He's actually the memorializer by default,
4 because Mike Miller -- I won't tell you what he said to me.
5 There is no way Mike Miller could -- who is, as you know, his
6 neighbor and grew up as Little Mikey. But, as I said, you
7 made it.

8 And now I'm going to call upon Mary Crawford to
9 memorialize a man who not everybody knew, because he was a
10 very quiet and gentle person, but those of us that knew him
11 have a lot of respect for this guy. Mary.

12 **MEMORIAL TRIBUTE TO DAVID S. WHITACRE**

13 MS. CRAWFORD: Thank you, Judge. Chief Judge
14 Missouri, esteemed members of the bench, members of the bar,
15 friends and family, it is my honor to speak on behalf of
16 David Whitacre. Judge Femia, I agree Dave was a very quiet
17 person. Not too many people knew him but, for those of us
18 who did know him, he blessed our lives tremendously.

19 He died at a very young age. He was only 51 when
20 he succumbed to a very rare type of cancer. He was born in
21 Hanau, Germany. Honestly, I think that contributed to making
22 him one of the most well-rounded individuals its ever been my
23 privilege to know.

24 He grew up in Winchester, Virginia, but he returned
25 every summer to Germany, where he visited with a dear aunt,

1 his Tante Trudy, and he perfected his German and he practiced
2 his German all of his life. He and Dr. Brown, who is the
3 chief administrative officer, she also, coincidentally, had a
4 Tante Trudy and, when they discovered that, they took great
5 pleasure in practicing their German together.

6 Dave graduated from the University of Virginia. As
7 an undergraduate he worked for a time as a mechanic,
8 repairing foreign cars, and that developed into a life-long
9 love and a hobby. He possessed several classic cars. He was
10 in a car club and enjoyed cars for the rest of his life.

11 In 1982 he obtained his law degree from American
12 University and, in 1983, he was hired by then-State's
13 Attorney Arthur Bud Marshall as an assistant state's
14 attorney. Dave and I were sworn in only a week apart and,
15 when I met Dave, his quietness did impress me. As I grew to
16 know him better, I found that he truly loved being a public
17 servant, and he really felt that it was a calling. He used
18 his law degree his whole career to pursue public service.

19 The other thing that impressed me about Dave at
20 that time, he was shopping for a house and he sat down with
21 us and shared all the research he had done on his house. We
22 were so impressed with how methodical he was. That's the way
23 that he practiced law. He was very methodical, very
24 organized and very thorough.

25 He stayed with the state's attorney's office. He

1 served under Mr. Marshall, he served under Judge Williams,
2 and he served under Jack Johnson. During his career there,
3 he was promoted several times. He was chief of narcotics,
4 major crimes and, finally, chief in the circuit court
5 division.

6 But, during those years, he continued to pursue his
7 other interests. He was an avid gardener and he loved
8 gardening and he filled his office with plants. He also was
9 very interested in cooking and his cars.

10 He lived in Tacoma Park. The house that he was
11 researching when I met him was the same house he lived in
12 when he passed away. He lived there with his partner Les
13 Woods, and he and Les shared 30 wonderful years together.
14 That 30 years, in and of itself, is a great achievement and
15 speaks a lot to what Dave's character was like.

16 In 2003 he was chosen by Mr. Johnson to be county
17 attorney. I had an opportunity to continue my work with him
18 when I became deputy county attorney. I can tell you that,
19 as I grew to know him better, he was just one of the most
20 remarkable people I've ever known. He was cool, and cool in
21 a dual way. Not only was he totally unflappable -- I never
22 saw him get angry at anybody -- he always had the most even
23 temper that I truly envied. But when you saw him riding
24 around in his red Citroen, two-seat car, he really looked
25 cool. That was a great car and he loved driving it.

1 He was very, very calm. He dealt with all of the
2 personnel issues that he had to deal with in a wonderful way,
3 never raising his voice, never losing his temper. He was
4 very, very caring. He developed a wonderful relationship
5 with his colleagues in the Office of Law, with his secretary
6 Dawn Acipiter, and he was never too busy to stop, listen,
7 give advice, and to make sure that you had what you needed,
8 either in a personal way or professional way.

9 He never complained, and it's that characteristic
10 that leads me to what I think is his most remarkable
11 characteristic, and that's his tremendous courage. Dave was
12 diagnosed with cancer, and it turned out to be a very rare
13 form of cancer, cancer of the appendix. He battled that
14 illness for years. He had surgeries, he had chemotherapy, he
15 had radiation, and I never saw a more dedicated, courageous
16 person dealing with that illness.

17 He would come to the office and you would look at
18 him and you just knew that he wasn't feeling well, but he
19 never took that out on anybody else and he always showed up
20 where he was expected. He fought the good fight but, in the
21 end, he succumbed to his cancer.

22 By a rather odd coincidence, this is the second
23 memorial service that we've had for Dave. We did have one
24 for him closer in time to his passing and, during the
25 service, the courthouse burned for the second time. And I

1 thought it was kind of an odd coincidence that today we had a
2 false alarm fire. So I think maybe Dave was trying to tell
3 us that if the fire alarm rings again, we should take it very
4 seriously, leave quickly.

5 But remember him for his kindness and his courage
6 and use that as an inspiration. Thank you.

7 JUDGE FEMIA: Chief Judge Missouri, colleagues, a
8 point of personal note. Though he was not a member of the
9 bar, nor a member of our association, I would be totally
10 remiss if I did not mention the passing of a man back on
11 March 21st, whom every lawyer in this room over the age of 50
12 knew and every lawyer over the age of 60 probably learned
13 from, and I make reference to Donald Fredolph Johnson, Don
14 Johnson.

15 Well, at one time he was the only court reporter
16 for three judges and, when he retired, he was our chief court
17 reporter. As I say, every lawyer in here with gray hair
18 learned something at the foot of Don. I learned to slow down
19 and stop acting like a damn fool. I learned that when the
20 court reporter does this (indicating), there's no copying;
21 your grandchildren aren't going to read it.

22 So, yes, Don died. He was 88, which I think is a
23 surprise to all of us. I always thought he was at least 90,
24 95, when I first met him 15 years ago. But Don passed on
25 March 21st. A loss to the legal profession, if not to our

1 association.

2 With that, Chief Judge Missouri, I want to turn the
3 program back to you and thank you again, on behalf of the Bar
4 Association, for the Court's cooperation and indulgence

5 JUDGE MISSOURI: Thank you, Judge Femia, for all
6 you do year after year after year. Judge Femia and I have a
7 pact. He's going to stay with the Court as long as I'm here.
8 I'm at the point where, after I'm gone, I really don't care;
9 I'm gone fishing.

10 But before closing, I had called her name earlier
11 and she is now here. Not only is she the councilwoman for
12 this district, but she's also a personal friend. So,
13 Councilwoman Bland, welcome to you and your chief of staff,
14 Dr. Billingsly. Appreciate you being here.

15 To President Frederickson, Judge Femia, to
16 Mr. Marcus and to Mr. Bair, to Mary Catherine Crawford, and
17 to my colleague, the Honorable C. Philip Nichols, and, of
18 course, to all of the family members here, Bruce, in addition
19 to Judge Johnson's direct family, you, of course -- I have
20 his nephew here, who was one of the best law clerks I've ever
21 had. I'd like to bring him back, if I could, but Dan said
22 he's making too much money to do that nowadays. And his
23 family is here.

24 So we welcome everyone here. Of course, I'm always
25 pleased that our appellate judges come to this service. And

1 Judge Nolan is always off traveling, but she always gets back
2 for this. So, thank you, Judge Nolan.

3 We have been joined by Judge Sotheron, who also
4 knew about Don Johnson, because he went to his funeral. So,
5 Judge Sotheron, we thank you for being here.

6 I thank all the judges, all the lawyers in the
7 audience and for everyone else who came and ladies and
8 gentlemen.

9 The judges of the Circuit Court for Prince George's
10 County, Maryland, are grateful to the Prince George's County
11 Bar Association and the members of the committee for the
12 presentation of these memorials and making the arrangements
13 for this ceremony. It is a very fine tradition that we have
14 maintained in Prince George's County for many, many years.

15 We pause from the usual matters taking place in the
16 courtroom, and we honor our departed brethren and pay tribute
17 to their memories. Many of you have enjoyed a very pleasant
18 and warm, personal relationship with those we have
19 memorialized today.

20 The Court will direct the memorials presented be
21 spread upon the permanent records of the Court and that
22 copies will be sent to the families of those colleagues we
23 are honoring today.

24 In conclusion, Mr. Bailiff, in honor of our
25 departed brethren, you may now announce the adjournment of

1 this Court, sir.

2 THE BAILIFF: All rise. This special session is
3 now adjourned.

4 (End of memorial service.)
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