

TRIBUTE TO JUDGE THOMAS PENFIELD JACKSON
D.C. CIRCUIT JUDICIAL CONFERENCE
PHILADELPHIA, PA
JUNE 24, 2015

I'm happy to have a few minutes to offer personal reflections on my late colleague, Judge Thomas Penfield Jackson. I had the pleasure of getting to know him from both sides of the bench. Early on, I appeared before him numerous times as a trial lawyer. Indeed, I recall trying a 10-week case before him 25 years ago this month. Later, I served as his colleague after I joined the court 8 years later.

What you noticed about him on your first encounter was that warm and sonorous baritone that was the envy of every would-be orator or vocalist. I noticed, because I counted myself among those would-be's. And then you looked at him. You could not help but be taken by his full gray mane, always well coiffed.

And I could look more closely after I joined the bench. I could see more of his square-jawed visage, jowls at the ready to present a stern face when needed, but quick to give way to his mischievous grin and penchant as a raconteur. His great storytelling sometimes generated some competition and jostling at the annual judges' dinner for who would get to sit at the table with him and Pat.

One that he told that I will never forget was about the three men who went duck hunting. One was a law professor, one was an appellate judge, and one was a trial judge. They each took turns at trying to bag a duck. The law professor went first. When a flock of winged creatures appeared overhead, the law professor lectured: "A recent law review article I read

quoted the Williston on Contracts treatise that cited favorably a case upholding a contract that defined a duck as having a light colored beak with a dark tail. Those overhead are likely ducks." But by the time the professor raised his shotgun to fire, the winged ones were gone. It was next the appellate judge's turn. He saw some avian creatures flying in the sky. The appellate judge declared: "The Supreme Court issued an opinion last term in a case involving protection extended to ducks under the Environmental Protection Act, and it defined ducks as having a wingspan of a certain width and plumage bearing certain colors. And so I conclude that those are ducks." Once again, though, by the time he raised his shotgun, the avian creatures had flown away. Next, it was the trial judge's turn. When some birds flew overhead - - POW. The trial judge fired his shotgun upward, bagged one, and said "sure hope it was a duck!"

But more than that, I profited from the door he always kept open to me when I came seeking - - as a novice judge, and as a not-too-novice judge - - advice that only one with his wisdom could impart. His knowledge of the law was deep, forged of his mix of years of private practice and breadth of judicial experience. His writing was crisp and clear. We made a bit of an odd couple: a white suburban Maryland guy appointed by a Republican, and a black urban New York City guy appointed by a Democrat, who came to harbor for each other great respect and warmth.

His is one of the portraits to which my eye is always drawn when I look about our ceremonial courtroom in the Prettyman courthouse. I pass by Courtroom 2 on the second floor of the Prettyman building and have fond memories of having appeared before him, and I pass by his former chambers on the second

floor and I picture the welcome he often afforded me. I offer a salute to a warm and helpful departed colleague, and I thank his family here today for sharing him with us.

Richard W. Roberts
Chief Judge
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