

**ORAL HISTORY OF THE HONORABLE DAVID B. SENTELLE**  
**Third Interview**  
**August 12, 2003**

This interview is being conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewee is the Honorable David B. Sentelle, Judge of the United States Court of Appeals for the District of Columbia Circuit. The interviewer is David Frederick. The interview took place on August 12, 2003. This is the third interview.

MR. FREDERICK: It is August 12, 2003, and we are continuing with your oral history. When we last met, we were talking about your career in private practice after you had left the U.S. Attorney's office and I would like you to tell me about your law partners – what they were like, what drew you to practice law with them, what their strengths and weaknesses were – those kinds of things.

JUDGE SENTELLE: Fred Hicks and I had been colleagues on the state bench. We both had decided it was time to make some money. We both had kids who had college in their futures. All three of mine were girls with weddings in their future, so I figured I'd better go do something a little more lucrative than being a state trial judge. We started a practice with one partner who had just pulled out of a larger firm. The three-man partnership didn't work out very well, but there was another three-man partnership upstairs from us – Tucker, Moon, and Hodge. So Hicks and Sentelle merged into Tucker, Moon, and Hodge and became Tucker, Hicks, Sentelle, Moon and Hodge.

Tucker was a business- and tax-type lawyer. Hicks and I did general litigation, having been state Judges with domestic jurisdiction, we did

some domestics which he liked and I hated. I had been a federal prosecutor and I began to do a lot of defense work, particularly federal and white collar. But defense work in general as well as domestic. Moon was bankruptcy and property. Though over the years, he had become quite well-renowned as a bankruptcy lawyer. He even got out of the property side of it. Hodge was a general litigator and we sort of all complemented each other's skills. We were able to be a fairly full-service firm although we remained a small firm.

MR. FREDERICK: Did you pick up associates along the way?

JUDGE SENTELLE: We picked up a few. By the time I left, I think we were a twelve-lawyer operation. It did not hold together after I left. Within a couple of years thereafter, there were no two partners still in the same shop.

MR. FREDERICK: To what do you attribute that?

JUDGE SENTELLE: I guess, since this is not going to be playing until after I'm dead, I brought in more than anybody else and took out a smaller percentage of what I brought in. And I think maybe there were more squabbles about how to divide the pie after I left when there wasn't as much pie to go around. That was at least part of it. There were also strong personalities in the firm that may have had problems with each other and maybe it would have busted up even if I hadn't left. I was seriously thinking about leaving and I had been approached about starting a white collar section at a large firm. I might have left even without the judgeship. The firm might not have held together in any event.

MR. FREDERICK: How did most of your cases come to you?

JUDGE SENTELLE: An awful lot of the cases came by referral from other attorneys. This was before the large firms had their own white collar defense internally or their own criminal defense attorneys. Firms weren't as large then as they are now. Very often they would send me their corporate executives when they got in trouble or their regular clients when they got in trouble of one kind or another, ranging from drunk driving after sporting events to antitrust violations. A big part of it came through referrals from other firms.

The non-criminal business, and I did a considerable amount of it, came in various directions. Again, other attorneys are your best sources – the people who don't do the kind of things that you do. I remember I had an EPA case, a Clean Water Act case that came to me when one of the big firms' lawyers called me. And this, remember was the 1970's. He said, "You were with the U.S. Attorney's office. Who in town does any litigation of the Clean Water Act?" I said, "I tried a couple cases down there." He said, "Good, we're looking for an expert and want to send you a corporate client." I said, "I tried two cases." He said, "That's an expert by Charlotte standards." That was sort of the way I got some things. I did some things that a lot of other people didn't get to do. I was a little bit ahead of the curve on things like environmental litigation and white collar crime.

And I developed some contacts outside the area in white collar defense because there was a fairly small group of us around the country that did it, so I began to get referrals and send referrals to people in other parts of the country who did it. Bankers in Chicago and I was doing the bankers in Charlotte and such. It was more referrals from other firms than anything else. The political connections generated some things, but I don't think you can stay in business doing the kind of work I did without respect of and referrals from other attorneys, not just when they don't do it, but when they have conflicts or more defendants than they can handle, for example.

MR. FREDERICK: How would you describe the bar while you were practicing? Was it collegial?

JUDGE SENTELLE: In the beginning and pretty much so in the end, but the Charlotte Bar grew, like everywhere else, and Charlotte was such a growing location that I think the bar doubled the first ten years I was there. So the less people know each other, the more room there is for a lack of collegiality. If you know you are going to be seeing the same people over and over, it tends to give you incentives to be nice to each other, David, and we mostly were. We mostly could run on a handshake. Still today, even in Washington or in the big markets, I think the stereotype that comes to television is entirely wrong. The criminal bar is more civil, more collegial, than the civil bar or the transactional bar. People who try criminal cases go have dinner together. You take the appellate case to

Richmond and you stay in the same hotel and eat together. It's fairly collegial in professionalism. It's not as pure as it once was.

MR. FREDERICK: Why do you think the criminal bar is more civil than the civil bar?

JUDGE SENTELLE: I suppose, for one thing, there are more people who aren't being paid by the hour. For another thing, there are more people who know they are going to be seeing the same repeat players over and over. And I do think the process on the civil side has become such a war of attrition with the discovery battles that get fought out that you don't have as much on the criminal side. There is a criminal motion's practice, but it's nothing like the war of attrition that you see people fighting in the large civil cases. I think that may be part of it. If you're aiming for a courtroom where you're even going to be pleading and negotiating or trying a case like two professionals. So I guess the nature of the work is more classically lawyer-like.

MR. FREDERICK: Now while you were in practice, you were also very active in the local Republican Party affairs. Can you describe that work?

JUDGE SENTELLE: When I left the state bench, I had decided I was coming out of politics and somehow or another that lasted about a year and I was asked to be chairman of the candidate recruitment section of the Republican Party. It was very interesting and challenging. I did work with some very good people. Sue Myrick, who is now the long-term representative in Congress for Charlotte I recruited to run for City Council when I was the candidate recruitment chairman.

The party was, like most of the Republican Parties around the state and I guess around the country, a bit riven into a Main Street and Wall Street type of factions where you had the financial Republicans and you had the socially conservative Republicans, who were not always on the same page. They began to have some fights over the chairmanship. I was invited by one of the downtown lawyers to please come have lunch at the country club and there were a half-dozen Republicans sitting there who said, “Look, both sides like you. You don’t have any enemies. We’re not going to let you leave. Would you agree to be chairman of the party?” So I became chairman of the Charlotte-Mecklenburg Republican Party, which was the biggest local party between Atlanta and Washington. I think nothing in between had as large a local Republican party as Charlotte-Mecklenburg.

Some parts of it I liked, some I disliked. I never liked money raising. That was not part of the politics that appealed to me. I don’t like to raise money. I continued with candidate recruitment. I enjoyed the campaign side, but it’s fairly time consuming and generates a lot of nagging at home - “You’re going out again?!?” It was very time consuming. I wound up running for county commission because, to get the ticket I wanted, I got caught in my own trap. Some of the people I wanted on the ticket would not run unless I did, so I ran without enthusiasm. I’ve pointed out that the people who won that race spent between \$40,000 - \$70,000 for the campaigns; I spent \$7,000, I think. So that gives you an idea of my lack

of enthusiasm. In spite of that, I almost won and didn't really want to because it meant conflicts on a whole lot of "nimby" business we had been doing. I was really glad I didn't win, but we elected the two people I wanted on the commission.

MR. FREDERICK: So for Mecklenburg County, the county commission was the board that ran the county?

JUDGE SENTELLE: Yes. They would compare to a board of supervisors in a Virginia county.

MR. FREDERICK: You became the Mecklenburg County Chair in 1979? Is that right?

JUDGE SENTELLE: I believe that's right.

MR. FREDERICK: How long did you serve in that role?

JUDGE SENTELLE: It was a two-year term. I didn't serve it all out because, between the campaign and the fact that the small law firm was coming apart and we were putting the larger one together, I ran out of time and finally asked the co-chair to finish out my term, which she did. But I served for about a year and a half.

MR. FREDERICK: Now what role did you have as the county chair in broader statewide politics? Did you get involved in the 1980 congressional or senatorial campaigns?

JUDGE SENTELLE: I think that's one of the years that I chaired the state convention. I chaired the state convention a couple of years. I was the chairman of the state committee and also the chairman of the convention. I was involved in all of Jim Martin's campaigns for Congress back then and always was involved in Jesse Helms's campaigns. There was not one of those in '80

as I recall. The next one was in '84. I did serve two years, although I was serving half a year off of somebody else's term and then someone else worked a half-year off of mine.

I was involved in the greater campaigns. I did a lot of front work for Jesse Helms the years he was running for Senate. I made a lot of Jesse speeches for a lot of groups. I was in charge of coordination.

MR. FREDERICK: What does that mean, coordination?

JUDGE SENTELLE: Somebody has to make sure that somebody on the local scene is in touch with somebody at the statewide campaign to make sure there's a place for the candidate to come to when the candidate is available to come to that place and that there will be a crowd there. You don't want the person who's supposed to run things locally to not be on the same page as the person who's running the state campaign. You've got to get the schedules of everybody involved to come together at the right places at the right times. Because I had worked both state and local, I did a lot of that. I handled a lot of details like transportation and security. You have to be sure that there is somebody to get the candidate from place A to place B, from the speech to the dinner. Details.

MR. FREDERICK: Sounds like during the fall season, when the campaigns are the hardest, that it must have been extremely difficult to balance your law practice and family life with politics.

JUDGE SENTELLE: It was and I'm sure I stole time from the family at times that I shouldn't have.

MR. FREDERICK: Were you involved in the issues at all in terms of formulating positions on issues.

JUDGE SENTELLE: Yes, but not formally. That's the kind of thing that goes on in a lot of discussion groups. I was never an issues chairman.

MR. FREDERICK: At the national level, you were an alternate to the Republican Convention in '84?

JUDGE SENTELLE: Yes. I had given up my delegate seat in '80 because I simply did not have time to be chairman of a candidate and a practitioner of law and a father and a husband and a Sunday School teacher. So I gave it up in '80. In '84, I decided it was time to go and I went.

MR. FREDERICK: Can you describe what the '84 Republican Convention was like?

JUDGE SENTELLE: It was a party. There was no major fight to be had. Ronald Reagan was being renominated. The party started when we left the ground in Charlotte. I believe for most people the party ended when the plane touched down coming back a week later. I didn't leave Dallas at the end of the convention. I had not been in Texas for a number of years so I rented a car and stayed out there and spent a few days and went to a few places I had been when I was bumming around Texas twenty years earlier. It was a party, a celebration, a great time of excitement. We knew we were on a roll to re-elect the president in that state. We knew he was a great president. It had all the features of a great convention except a fight.

MR. FREDERICK: You came back from that convention back into private practice. Was that a bit of a comedown or a letdown? Did you think at all of going to Washington at that time?

JUDGE SENTELLE: Well I had at several times been asked to go to Washington in some role or other and I never really thought I wanted to. I enjoyed the practice of law. I enjoyed North Carolina. And I really thought that when I didn't run for Congress in 1984, that was the last time that I was not going to Washington. The year Jim Martin didn't run for re-election and chose to run for Congress I was approached, principally by Helms's people and by others as well, about running in Charlotte-Mecklenburg for Jim Martin's seat. Jim called me and said, "I'm not running for Congress." I hung the phone up, turned to my wife, and said, "Jim's not running for Congress." She said, "You're not either." That was close to the end of it.

I was not in a big firm and didn't have a lot of money to support a family with if I ran for Congress. I was sure we could raise the money for the campaign but, thinking about the future of the family, I just could not see running every two years for office. I ruled it out and, as I say I thought I had ruled out ever going to Washington. And then of course five years later I was up here on the bench.

MR. FREDERICK: I hear stories like yours about the campaign finances and the need to raise money and the consequences of that. Based on your experience, do you have reflections of how our system of campaign finances works and should work and would be better?

JUDGE SENTELLE: Oh, I think like so many other things in life, something is not a problem unless you think you have a solution. Otherwise, it's a situation. Larry Silberman, a former diplomat and colleague says, "There are situations and there are problems. The difference is problems have solutions." I think that's a situation and I think we're wasting time treating it as a problem because I don't think there is a solution. I think it's just something that has to work itself out year after year. No, I don't have any solutions. Therefore, I don't see it as a problem, I see it as a situation.

MR. FREDERICK: While you were engaged in the private practice of law, how were things working in terms of judicial selection in North Carolina? How did that process work?

JUDGE SENTELLE: Well, there's a saying in the federal judiciary that there are two ways to become a federal district judge. You can either know a senator or know someone who knows a senator. And that's pretty much the case. If there's a senator in your state who is in the party of the President, typically the President's people will ask the senator for three names and the senator submits them. In my particular case, Woodrow Jones was the chief district judge in our district. He was eligible for senior status. He was, by chance, an old friend of Jesse Helms. He was an old, former Democratic congressman. Jesse had worked for a senator up there the same time that Woodrow was in congress. Woodrow called me back to chambers one day after court and said, "You should get in touch with Jesse Helms. I'm seriously considering taking senior status. I'm not going to try to name

my successor, but I'd like to be able to tell Jesse the people who should be on his list for the President. And if I were you, I'd start trying to line up to see if you can be first on that list.

I called and I didn't talk to Jesse directly. I talked to Tom Ellis and told him what Woodrow had said. Tom put me in touch with Jesse, Jesse called Woodrow, and then Woodrow announced his retirement was coming. Jesse, I'm told, sent three names to the President. Ronald Reagan was always greatly attached to Jesse Helms, for reasons that went back to the 1976 campaign. His people contacted Jesse and said, "Who was your first choice?" He said, "The first name on the list", which was my name and he said he had no objection. That's how I was selected for the district.

MR. FREDERICK: Do you know who else was on the list?

JUDGE SENTELLE: Yes. Mike Scofield and Robert Long. Long, I think, never really wanted the job very badly. He was and is very happy being the one of the two or three best lawyers in the Asheville area of North Carolina and a great political manipulator. I'm not sure he wanted to do anything else in life but precisely that. Scofield would have liked to have had it, but he also recognized that I lined up ahead of him. He called me after he'd had his interview with Jesse's people and said, "I want to congratulate you on being the next judge because the only thing they were doing was being polite to me and talking about you." So he was recognizing that I had paid more dues than he had.

MR. FREDERICK: So in 1985, you became a United States District Judge for the Western District? How did you go about setting up chambers and deciding where to do that?

JUDGE SENTELLE: Well, it was pretty much understood I was going back to Asheville where Woodrow had had his principal chambers. It's been traditional in that district that one of the judges has principal chambers in Asheville and one in Charlotte, even if the judges live a little ways away from those locations. I was from Asheville and everyone understood that I was a home boy coming back home. That made me particularly attractive because I had strong ties to both ends of the district. Asheville is by far not the end of the district, but it's the other population center in the district. So for the second time in our life we went back to Asheville to stay the rest of our lives. Made it two years that time and the first was a year and a half.

MR. FREDERICK: Tell me about your first case as a judge. Do you recall what that was like?

JUDGE SENTELLE: Yes, the first trial I had was a magistrate trial. Our magistrate had a conflict of interest. His cousin had been ticketed for speeding and reckless driving on the Blue Ridge Parkway, which is a federal offense. So I tried a magistrate case and found him not guilty as a matter of fact. He was a local Asheville lawyer who was the cousin of the magistrate. So that was actually the first trial I had as a U.S. District Judge.

The first jury trial was a civil case. A woman had fallen at a dude ranch and broken her hip. She was suing. I was not at all sure I should have let

the case go to the jury. If they had held for the plaintiff, I might well have set it aside, but they sided with defense so that solved my problem.

My first criminal trial was a Defense contract fraud case. It was a corporation in the Asheville area that made escape doors for submarines and parachutes and protection parts for airplanes. They were charged with over-contract padding. The president of the corporation had already pleaded guilty in front of my predecessor and I had a couple of senior executives come up to trial. It was a great trial, about a week-and-a-half long or a little more. Bill Osteen and Woody Tilley, who are both now district judges in the Middle District of North Carolina were two of the defense attorneys. Herbert Hyde from Asheville, an excellent old-time lawyer, was the other defense attorney.

As is typical nowadays, the government charged way too many counts. They had about 120 counts, but they could have gotten along fine with about a dozen or so. But the word processors generate counts. The jury was magnificent. The foreman was a little woman about 5 feet tall who was the manager of a branch bank. They had these boxes and boxes of exhibits. She would come up with a yellow pad and ask for exhibits 100 - 140 or something and I could see they were matching up with the counts that they were marching their way through that lengthy indictment block-by-block. The counts came in blocks of a dozen or so. They asked if they could order pizza and stay in session. They did and were out from about ten in the morning until close to midnight, but they came in with verdicts

of guilty on some counts and not guilty on others and they were rational. They were counts where I could see where the evidence was stronger on the guilty counts than the not guilty counts. It was the kind of thing that restores your faith in the jury system.

MR. FREDERICK: How did it feel to be on the other side of the bench for the first time after having done so many trials as a lawyer?

JUDGE SENTELLE: Of course, I had been a state judge earlier, so it was not as much of a shock to my system as it might have been otherwise. I was never really uncomfortable as a judge. The first time as a state judge that I had to put somebody in jail, that was a shock. Even as long as I'd been a prosecutor and put people away for a long time, when I put a guy away for six months – when you say the words and you know that that guy is actually leaving between two officers, that they're going to lock a door behind him because of what you've said, it's very hard the first time. It is the case that it gets a lot easier. I would not say it ever becomes a pleasure to put somebody in jail, although a few times it's a pleasure, but most of the time it's not. It does become easier as time goes by.

MR. FREDERICK: Was there any kind of formal judicial training that you did before you took the bench?

JUDGE SENTELLE: They do that from the administrative office. They have a small group session that comes either shortly before or shortly after you go on the federal bench. I had been confirmed but was still awaiting confirmation. That was when Bob Byrd was holding up the whole calendar and

everybody assumed we were all going to be confirmed and then he held up the vote. So there were two or three of us not yet confirmed. We met down in Raleigh for a small group session and there were judges from all over who just happened to be in Raleigh. I was the only one of the judges there who drove to the session because everybody else came from Mississippi, two from Arizona, one from New York, one from Texas. So everyone else flew in and I had the only car. Fortunately I had a big car so we could go places together.

We had a five- or six-day session that was operated by Judge Hoffman, whose real first name is escaping me. He was known as “Beef.” He was a big, beefy judge from the eastern district of Virginia. Walter Hoffman. He had been around a long time and was a very well-regarded senior judge. He ran the show and he had two or three other judges who came in and out for parts of it. Then he had one or two people from the FJC who also assisted with the training for the week. We went to a federal prison. I understand they always hold these sessions near a federal prison. You go out to the prison for one day. We had sessions on EEOC cases, on criminal cases, on sentencing (that was before the guidelines), all the things that a district judge does. Hoffman had been around long enough to have it organized properly to cover every aspect of it adequately.

Several months later there was a big group meeting in D.C. that had probably seven or eight of these small groups consolidated into one large session. It had more lectures and less of a workshop-type atmosphere.

They went over court administration, case management, as well as the substantive matters.

MR. FREDERICK: Was that helpful?

JUDGE SENTELLE: Very useful. I think for some people more so than for me because I had federal trial experience and a lot of people didn't have the same type of experience I did. Some of them had never done criminal work and some of them had never been judges of any sort. So I had less gaps in my education and experience than many of my colleagues did, but it was helpful for all of us.

MR. FREDERICK: Describe the judicial district that you supervised as a judge.

JUDGE SENTELLE: The Western District of North Carolina encompasses the western third of that state. North Carolina is both a longer and more populous state than people realize. From Manteo to Murphy, as they say down there, the eastern coast to the western tip is over 500 miles. We had the western third of it, which from Charlotte to the Murphy tip is over 200 miles. Charlotte anchors the eastern corner of this almost triangular-shaped district. Charlotte, of course, is a financial center – more so now than then – but even then was a banking center. It then was a large trucking center – less so now than then. People don't realize that Charlotte is the second-largest financial center in the United States. It wasn't yet then, but it was already a banking center. Now it's over a million people; then it was a few hundred thousand. It's very urban, but you don't have to get that far out of town to be in the rural areas again.

Small towns dotted the rest of the eastern part of the district and the middle part of the district. You had five seats of the court: Charlotte, Statesville, Rutherfordton, Asheville, and Bryson City. Statesville is a furniture and textile town. One of the two largest furniture shows in North Carolina is the Statesville-Hickory show. The middle district has High Point, which is the other furniture show.

Rutherfordton was just a little mountain town that became a seat of the court. Rutherfordton was an old moonshine center, so I guess in the days when it became a federal seat of court, there was a lot of practice in whiskey cases. And it became – along with Wilkes County in the middle district – something of a drug distribution center. The old moonshine distribution networks converted over to marijuana and then later moved to pharmaceuticals.

Asheville is the population center for the mountains of western North Carolina. It has the large hospitals – relatively large – and law practices that exist between Charlotte and Knoxville or Chattanooga. The county of Buncombe containing Asheville is about 150,000, so it's not a huge population center, but it's a lot bigger than the counties around it. So it was the largest seat of court outside Charlotte.

Bryson City existed as a seat of court because of the Indian reservation. That generated enough business for about six terms a year, one-to-two weeks of court time, so about close to twelve weeks of court time a year. The other counties around, outside of the Indian business, you had federal

lands and the Blue Ridge Parkway that generated some litigation. There was a sparse population beyond that, but in more recent days if you noticed the capture and arrest of Eric Rudolph, that was in Murphy, North Carolina, which is the westernmost tip of the state. My brother commented on the nice haircut that Rudolph had and said he didn't think he could get that hiding out in the woods and I told him I didn't think he could get a haircut that good in Murphy. Be that as it may, it's a pretty rural and sparse population once you get outside of the Indian population to the west.

A lot of tourist locations. In the summertime there are a lot more people around some of those counties than there are in the fall.

MR. FREDERICK: In your time as a district judge, did you have a regular schedule for sitting in different centers of court?

JUDGE SENTELLE: Yes. I was responsible for the Asheville and Bryson City seats. I would occasionally, for some reason, hold court in one of the other seats. There were sessions every two months. Criminal session was in Asheville and a mixed session in Bryson City. The rest of the time, we had civil work in Asheville. We scheduled it around the criminal terms.

MR. FREDERICK: Would you also hear cases from Charlotte or the eastern part of the district?

JUDGE SENTELLE: Very rarely. It was generally that the dockets in Asheville and Bryson City were mine. The Charlotte and Rutherfordton dockets were Bob

Potter and Jim MacMillan's. Judge Jones was still sitting as a senior judge, but he had Rutherfordton. He had all of it virtually.

Just before I came in, they had made the decision that one judge should have all of the asbestos litigation. They decided that judge should be the newest one. I had the asbestos litigation, which was mostly in Charlotte, so I'd go down to Charlotte to try that occasionally and when one of the judges had a conflict of interest, I would take a case down there. The same way one of them – usually a senior judge – would take mine if I had a conflict of interest.

MR. FREDERICK: Did you have a magistrate judge that was assigned to you?

JUDGE SENTELLE: Yes. Toliver Davis was our magistrate judge for the Asheville and Bryson City divisions. He was a very hard working magistrate judge. We didn't use the magistrates then for the civil work like some of the judges do now. Toliver had all of those federal misdemeanors that occurred on the Blue Ridge Parkway, the national parks, and the Indian reservation. So he had a lot to do besides the regular intake work that magistrates are best known for. And they were called magistrates then. The title, "magistrate judge" didn't come in until a little bit later. Toliver was a long-time judicial officer and a very, very good one. He was very dependable.

MR. FREDERICK: Who else was on your staff?

JUDGE SENTELLE: I had two law clerks and a secretary. My secretary, Jane Seacrest Floyd, had been my secretary in the U.S. Attorney's office. She was the most outstanding public servant I think I knew. I got a commendation once for

administration and I told the boss to the U.S. Attorney that all I did was stay out of the way and let Jane run things and he said, "I realize that, but that's all you had to do." I left the U.S. Attorney's office to go to the state bench. When I came out three years later to go into private practice, I hired her away from the government. She was our paralegal – mine and Fred's – for the law firm. She told me when we were in the U.S. Attorney's office, she said, "You're going to be a federal judge someday and I want to be the judge's secretary when you're a federal judge." The day that Helms called me to tell me I had the nomination, I asked her if she still wanted it. She had married in the meantime and her husband was a trucker. She said, "Yes, Steve can run out of Asheville as easy as he runs out of Charlotte." So she came in as my secretary in the U.S. District Judge's chambers. She served with me the first year that I was there, developed a very fast-acting liver cancer, and died. And it was exactly like losing your best friend and your right arm and a piece of your life all at the same time when she died. The same as a close family member. The woman who replaced her, Lisa Mathis, was a courtroom deputy clerk. She came with me and was a very good secretary, but it was nothing like having Jane. She was also a very close, close friend.

I had two law clerks. My plan had been to hire one clerk each year and keep them for two years, but since I was only there two years it didn't work out to have much effect. The first clerk was Beth McConnell who clerked for me part of the year and then the next full year. Then Melanie

Morris came in who clerked with me a year there and then a year with me up here.

MR. FREDERICK: How did you find them, or how did they find you and how did you select them?

JUDGE SENTELLE: Even coming out of season, you get a lot of mail from a lot of applicants.

I didn't go hunting, I just took the applicant letters that came in the mail. I took the ones that looked best and interviewed them and hired them.

MR. FREDERICK: In the mid-eighties, was it common to have female clerk applicants?

JUDGE SENTELLE: Much less so than now. Woodrow had been considered by people backwards in a lot of ways, but he was sort of the pioneer in hiring female law clerks. He had female clerks for two or three terms. He was a very decorous old gentleman and the gentleman who was the courtroom deputy clerk for both Woodrow and me said Woodrow used to always have him stay up at the motel as long as Woodrow was meeting with his law clerks because he didn't want to be alone with a female clerk at night.

I was not as careful as Woodrow was. I was alone with my female clerks at night sometimes, but I never got accused of any hanky-panky, so I guess it was not necessary to have staff around me. Woodrow always had them. It was not as common as it is now, but I was not the first to use them.

MR. FREDERICK: How did you use your law clerks?

JUDGE SENTELLE: It's a little different job at the district level than it is here. I've told law clerks that if they're going to do both, it really makes more sense to come

to the circuit first and then go to the district because this is like an extension of law school or law review. The district court is sort of like the beginning of practice. Although they do a lot of research and preparation and motions practice, they also do a lot of work in contacting attorneys and making sure that we can get everybody there for motions hearings and coming and going to pick up things we need from the clerk's office and making sure that we have the right files. Then they assist in opinion writing. Here it's a big part of their job; there it's a small part of their job. They sit in the courtroom while you're in trial. You have one of your clerks in there to anticipate that you're going to need 521 U.S. because that's the case they're arguing about and go and get it and bring it and run it to you. We didn't have computerized legal research back in those days. We certainly didn't have it in the courtrooms. So they made sure that I had the right books on the bench when I needed them. Then we met at night and discussed what we needed to have in the next day. Sometimes we hammered out all night how to rule on motions we'd been hearing that day.

Each of the ones I mentioned traveled to Richmond with me for a term when I sat at the Fourth Circuit Court of Appeals. Each of them traveled with me to Bryson City various times. In Richmond, much like here, when I sat by designation. They drafted the first drafts of some of the opinions.

MR. FREDERICK: What were some of the most important cases that you decided as a district judge?

JUDGE SENTELLE: I guess the most interesting is the one I wrote the book about, where they had the hippie gathering that was about to break into open warfare between the hippies and the law enforcement authorities for the State of North Carolina. That was one that took a lot of careful handling, even though I probably didn't have jurisdiction. I came up with a consent judgment on it.

On the criminal side, the defense contract fraud case was my first criminal case as a district judge. It was a very important case. There was a lot riding on it. That's a couple that stand out in my mind.

MR. FREDERICK: I want to talk about the Rainbow People in a moment.

JUDGE SENTELLE: I don't want to talk too much about it. That's kind of been talked to death over the years.

MR. FREDERICK: Tell me about this contracting case. What were the issues there?

JUDGE SENTELLE: Well it was really an intent argument as to whether they had intentionally padded the cost. It was a cost-plus contract and to what extent had they intentionally padded, fraudulently, the cost of the construction?

MR. FREDERICK: This was a local defense contractor?

JUDGE SENTELLE: Yes. It was not exactly a small business set-aside, but neither was it a huge corporation. It was a smallish corporation. I think it was originally a subsidiary of an English corporation that had spun off. The president of it was a British man, but the people who were defendants in my case were

American citizens. They were executives. As I said, they made submarine escape hatches and escape mechanisms for jet aircraft. There was no allegation that they were doing anything inferior in their products, just padding the hours. So there was a lot of evidence of things like somebody running a bicycle shop for the company and charging off those hours to this. They were not really evil people, David, but they were looking after their corporate interests and their employee interests. They probably got caught because they got too greedy. But it was an intent thing. What did the executive know and when did he know it? The government did a good job with establishing it. They knew a whole lot and they knew it early on.

MR. FREDERICK: So the executives were sentenced to prison?

JUDGE SENTELLE: Yes. I sentenced the senior executive of the two before me to two years. The other man I sentenced to six months, I believe. And I know I made the comment on the record that he appeared to me to mostly have been looking after his troops. He was trying to keep people from being laid off, was the main thing he said to me. I had anticipated the senior man being paroled fairly soon, but as it turned out they were using new parole guidelines and he stayed longer than I thought he would have to stay. I had given each of them active sentences on some counts and then suspended sentences or probation on other counts. They each had a turn on probation following the active term. I remitted the fine and early-terminated the probation on the senior executive because he did have to

build more prison time than I meant for him to build. So when he came in moving for modification, I gave it to him.

MR. FREDERICK: This was the period before the sentencing guidelines. Describe how you went about making the sentencing decisions in the pre-guidelines period.

JUDGE SENTELLE: We had a piece of paper in front of us from the probation office that gave us a full report on the lives and backgrounds of these defendants. We also had within it the average sentences for this offense that had been imposed in our district and nationally. We had what the law was on parole, but we did not know precisely what guidelines there were for parole – or I didn't, at least. And you tried to impose a sentence that would punish for the act done, deter this person and others from doing it again, and yet not be disproportionately harsh in relation to the degree of culpability involved. If that sounds general, it was a pretty general way of looking at it that we had in those days. It was hard. It was a very difficult part of our task.

MR. FREDERICK: Would you describe yourself as on one side or the other? Did you tend to go stricter than the averages or less strict?

JUDGE SENTELLE: Probably I went stricter than the averages, David. I don't think dramatically so. But I was on the high side. As a state judge, I had been regarded as a pretty heavy hitter in misdemeanor and traffic court. I think the punishments were there for a reason and we had to use them. At the same time, for example on that defense contract fraud, I believe that in white collar crime the fact of imprisonment is more important than the length. If you punish the corporate executives severely when you're

sentencing him, sending him for five years may be redundant. If he's there for a year-and-a-half, that may be quite harsh for somebody who has lived all his life as a fairly law-abiding citizen.

MR. FREDERICK: Now, although as a district judge you never applied the sentencing guidelines, as a court of appeals judge you've had many occasions to review how they have been applied. What do you think about the sentencing guidelines?

JUDGE SENTELLE: I did, in fact, go back and sit by designation and applied the guidelines a few times. As a regular district judge, though, I never did. I left the month they became effective, but I did go back by designation. I think that we would have been better off with true guidelines instead of what amount to rules. These are more like rules than guidelines. They are too rigid. They don't leave enough room for the exercise of the informed discretion of the judge who actually knows what's going on.

Now I agree with something Tony Kennedy's being misconstrued on, that the worst thing is not the guidelines, it's the mandatory minimums. You see the papers now saying that Tony was critical of the guidelines, which he was, but he was more critical of the minimums. And I think they are the worst. They were often draconian treatment for defendants who are not all that bad of people sometimes. Some drug courier out of New York who may be making his first run winds up with twenty years of prison time, builds that twenty, and then winds up with no job skills other than what he learned in jail and may commit more crime. He would have been

a lot better off and the system would have been a lot better off if he'd been given a couple of years followed by probation. I think mandatory minima have a) wreaked havoc and b) don't belong in the same universe with the guidelines. And the guidelines themselves are way too rigid. They should have been put out advisory instead of something that is almost compelled to be followed. Now you have that new amendment that says they have to justify departing downward. We're supposed to review it *de novo*. I don't know how you sentence *de novo*. I guess we'll find out.

MR. FREDERICK: Well the number of appeals of sentencing guideline matters has been enormous, far more than in the pre-guideline era. How do you think the system will evolve to accommodate the need for greater discretion, if at all?

JUDGE SENTELLE: I don't know. I don't see the political force that's going to cause great change, David. Congress is the political actor there and it acts often for political reasons. I don't know what the court will do. A Supreme Court justice coming up to take this on as Tony has may affect some congressmen, but I can't see it happening soon.

MR. FREDERICK: Now I don't want to talk too much about the *Rainbow People* case unless you do because you've written this wonderful book about it, but what struck me in reading the book was the way you banged heads together when they needed to be banged in order to get a result that people could live with. And I wonder if you could just describe that process. Because you mentioned a minute ago that you didn't think you had jurisdiction

over the case and yet the case ended up being litigated and being resolved by a consent decree. How did you make that happen?

JUDGE SENTELLE: I suppose, David, I learned and developed that skill as a state judge with domestic jurisdiction. The most contentious litigation in the world is probably domestic litigation. And yet, the need to have livable settlements is the greatest there of any kind of litigation. So the main thing that domestic judges do, at least in my day when I had that part of the docket, was that you tried to get the two lawyers in one room with their clients outside finding out what is important to each side and seeing if you can achieve it without doing damage to what's important to the other side. Because very often it goes way beyond what's before the court in the domestic cases. The stuff that you put in those consent judgments very often you couldn't legally order. And it's details you never think of because details are important to people in ways that the system doesn't recognize, so I think I tried to take the same skills I used in domestic cases and just find out what's important and see if we could achieve it without doing great damage to what's important to the other side. In a consent decree, maybe we could do something good that you couldn't conceivably do all by yourself. Did that answer your question?

MR. FREDERICK: Yes. I mean, did you have an occasion to use those kinds of skills in other civil matters that you heard as a district judge.

JUDGE SENTELLE: Yes, you do. Now you have to be careful not to over involve in case you're going to have to try the case. What's done now, and what would

be very hard to do at my old district, is very often it's sent to a magistrate judge to do a hearing. The magistrate judge does the head knocking and that leaves the judge that has the case in the district court much more pristine if he has to try the case. But in a rural district, or semi-rural like we were, we just didn't have the personnel for anybody else to do it, so the judge was more involved in the settlement negotiations than might be viewed as appropriate up here. But it was okay down there because that's the way we did it. That was the way everybody was used to doing it, so, yeah, we were involved a lot. Particularly in the state court, but to some extent in the federal also.

I remember telling some lawyers in a federal court one time in chambers – good lawyers – who were hung up \$5,000 apart. “We're not wasting the resources of the federal court over a \$5,000 case. Somebody come back in there tomorrow and tell me the case is settled.” They came back in and I signed a consent decree. Sometimes that's what you have to do and what's most efficiently done.

And I remember a personal injury case one time where, in the middle of the trial, I knew the lawyers had been talking about amounts and getting closer and closer. I didn't know precisely what. Before I told the jury to come back the next day in the middle of the Christmas season one time, I said, “Gentlemen, I'm not asking you numbers, but if it's going to be worthwhile to take a recess, I'll let you call your company.” The attorneys said, “Yes it is, your honor.” And we sent the jurors out to take a nice,

long lunch and when they got back we told them it had settled. If you're alert, you can sometimes efficiently improve the process.

MR. FREDERICK: Now in the *Rainbow People* case, you made a decision at the very beginning to drop everything and head for the hills to scope out the situation and that was a decision that you made at the very beginning of this process. What instincts led you to make it? Because that decision, as I read your book, was a critical one in how the whole rest of it unfolded.

JUDGE SENTELLE: The lawyers suggested it and it seemed to me that the only way I could get accurate evidence of what was going on down there was to do it spontaneously. Go out there before anyone had a chance to state anything and not try to get the bits and pieces that you bring to the courtroom, but just go see what was really happening out there. The state made it sound ominous, the ACLU lawyer made it sound ethereal. I was fairly sure it was somewhere in between, but I was fairly sure that the only way I was going to know was to have what amounted to a one-person jury review. I think I was right about that. Whether I was right or wrong, about anything else I think I was right about that. I found out what was really happening only by going out there to see it on the ground.

I don't generally believe in jury review. That was the exception. The times that I did it in regular cases with real juries, it almost got out of hand. The jury gets out there and they want to talk about what they're seeing. Of course, that's not what you want them to do at all. You want

them to see and then come back and think about it. They, being human, have a hard time doing that.

MR. FREDERICK: Well at an event like that Rainbow People gathering, I can imagine it was very difficult to restrain oneself.

JUDGE SENTELLE: Well we didn't have a jury, so we didn't have that problem.

MR. FREDERICK: But even your own observations.

JUDGE SENTELLE: Yes, it was difficult all right. I took a jury out one time to see an easement by an adverse user in a state case where it involved the horse trails. There was an argument over whether it was evident that the horse trail went across the land in question and had created an "open and notorious" use. Really, it was very hard to keep the jury from deciding the case right out there at the scene, so we sent them back to the courtroom after this inspection.

I figured I was a trained professional, David, and I did the best I could to maintain a developing sense of what was going on rather than determining it all at once. And then we took a day for evidence in court.

MR. FREDERICK: At what point did you decide you wanted to write a book about that episode?

JUDGE SENTELLE: I wrote what became that book very shortly after the events had taken place, simply because it was so unique that I decided I would preserve it. I didn't have any idea what I was going to do with that manuscript. I sort of decided later that people would find it among my artifacts when I died and I just laid it back in the drawer. Then I mentioned it to a law clerk,

Monty Kosma, who said he would like to see it. He was an editor of *The Green Bag*, which was offbeat law articles. And he came in very amused with it and said he'd like to run some excerpts from it in *The Green Bag*. I let him. Then *The Green Bag* publisher puts out about one book a year. He and Ross Davies came to me and said, "How about putting it out as a book?" I checked with our ethics representative, Ray Randolph. He said I could even take profit for it. I had misgivings about that, so any share of profit of mine goes to the Supreme Court Historical Society. But, on Randolph's okay, I went ahead and let them put it out.

But I did not think when I started out writing it that it was going to be as long as it turned out to be. I intended to write something of essay length and it turned into book length. The details kept coming to mind and I kept adding them and then it got longer and longer.

MR. FREDERICK: It's a wonderful description of a wonderful case. I can't imagine there being any more fun and interesting cases as a district judge that you could have that had that degree of color and intellectual interest in the issues. Because the issues are quite difficult to decide.

JUDGE SENTELLE: Nothing else matched that.

MR. FREDERICK: Did that case come up at all when you were being considered for the D.C. Circuit?

JUDGE SENTELLE: No. It might have, had it not been for the fact that I'd already had my hearings before that case came up. So my nomination was pending during the time we were holding the *Rainbow* case. It very well might have come

up had I been nominated after the *Rainbow* case was over. But, as it was, you have to list ten important cases from your career on the form they want from Justice and the ABA and the Senate. I'm sure I would have listed that one if my nomination had come later. But, as it was, I think I listed four of the cases I had in the Fourth Circuit and six cases from the District Court. It was ten cases as a lawyer, so it's very hard to figure out which ten to list. I'm sure this one would have made it as a judge if it had come up a little later and I would imagine that I would have been questioned about. But as it turned out, the timeline was such that it didn't really play any role.

MR. FREDERICK: So you had had your hearing and you were simply waiting for the Senate to act?

JUDGE SENTELLE: I was waiting for confirmation at the time. The committee voted, I believe before the case. I was held up twice for that nomination – once on committee confirmation and then once on floor confirmation. The long hold was on the floor part.

MR. FREDERICK: Well let's back up a bit and tell me how a North Carolina district judge became considered for the D.C. Circuit.

JUDGE SENTELLE: I've always wondered about that, David. I hadn't been on the district the whole year when I got called by the Deputy Assistant Attorney General and the Assistant Attorney General one day, whom I slightly knew, who asked me if I'd be interested in the D.C. Circuit. I said, "Steve, I've never thought about it." He said, "Well, Skelly Wright is taking senior status

and we would like to consider you for that seat if you'd be interested."

And I told him I'd never thought about it before. He said, "Come talk to us. Don't tell anybody why you're coming, but come up and talk to us."

I came up and talked all day to various people in the Department of Justice and the Reagan Administration. Toward the end of the day, I asked Brad Reynolds what you just asked me. "That D.C. Circuit, I've looked over the people Ronald Reagan has nominated. I see a lot of professors. I see a lot of outstanding Ivy League graduates. How does a country district judge from the Western District of North Carolina make this list?" I honestly thought at that point that I was just being complimented. That Jesse Helms had done nice things for them and they were going to tell Jesse, "We talked to your guy for this one." But I had been dissuaded of that notion earlier in the day when I ran into Jesse and he didn't know why I was up there. So I knew there was something else going on, that they were apparently serious.

What Brad told me was that they had been criticized for not having trial experience in their nominees for the D.C. Circuit and that they had gone over the list of district judges appointed by Reagan and the late Ford or Nixon appointees to find people who they could consider for the Circuit. I don't know whether that's true or not. I've always doubted it because there didn't seem to be that many of us who were under consideration. I think maybe Ken Cribb or some of the others I knew from the Goldwater

campaign had brought my name to their attention. Be that as it may, they did have one or two other trial judges that they had on the list.

In those days, the nominees for the D.C. Circuit came from all over the country. The Washington Bar objected to that every time and the administration paid no attention to it. It went back to F.D.R., at least.

They nominated people well before then, back to Teddy Roosevelt. They nominated people for D.C. judgeships who were from around the country.

Toward the end of Bush I and all of Clinton, they did nominate D.C.

people for the seats here. Bush II, that's been so far we've gotten John Roberts, a D.C. lawyer, and the nomination of Miguel Estrada, a D.C.

lawyer, but then with the other two nominees they've gone back to other parts of the country. So the short answer is I don't really know how they picked me out of a country district to nominate me in D.C. And, by the way, I didn't get the Skelly Wright seat, I got the next one, I had Scalia's seat. Ken Cribb denies being the one who initiated it. He was counsel to the attorney general then, and he was an old friend, and I suspect Ken had something to do with it. Does that answer that question?

MR. FREDERICK: Well, no. Because there must be an answer and I had always assumed that Senator Helms had had a role, but you don't think so?

JUDGE SENTELLE: No, when I came up that day, as I said, Brad had told me not to tell anybody why I was up there and I didn't know why. They were trying to keep a lid on everything. Well I ran into Helms and two of his staff at Justice. So I went in to see Brad and said, "Well you told me not to tell

anyone why I was up here. Senator Helms is going to want to know what I'm doing up here. And I'm not in the habit of lying to him." And he said, "Okay, you can tell Helms what you're doing here." So I went to meet a mutual friend of mine and Helms for lunch. We got a beer and just sat there for a while. He said, "Jesse called. He wants to talk to you." I called back to Jesse's office. They said that he was on the floor, but Tommy Ashcraft, one of his aides, would take the call. Tommy came on and said, "Helms wants to know why you were in Justice." I told him. He said Helms said to tell you that he's committed to someone else for that seat, but that his person is not going to get it and when his man falls off the list, then you'll be his man. So Jesse did come in behind me later, but it was way into the process.

By chance, there were two North Carolina people on the list before. Broyhill was by then the other senator from North Carolina and his first choice was the other North Carolinian. When she fell off the list, I was Broyhill's match, but Broyhill had no particular influence. Only a senator for a short time to finish out a dead man's term.

MR. FREDERICK: Did Boyden Gray have any role at that point in judicial selection?

JUDGE SENTELLE: No, I don't think so. Boyden was at the Vice President's office at that time and I doubt if Boyden was concerned with it at all. Boyden was probably the reason that I was later on the short list for the Supreme Court, but I doubt if Boyden had anything to do with that.

MR. FREDERICK: So you were nominated not for the Skelly Wright seat, but, within months,

JUDGE SENTELLE: Right. In the course of that same conversation with Brad where I asked him how I got on the list, he said, “By the way, there’s going to be two vacancies. We’re not at liberty to tell you why there’s another vacancy, but you’ll know very shortly.” I think it was literally the next day the Burger announced that he was retiring. Then they announced they were nominating Rehnquist for the Chief Justiceship and Scalia for Rehnquist’s seat. So that explained the other vacancy that was coming. I think it was literally the next day. If it wasn’t, it was within a very few days.

MR. FREDERICK: So you’re nominated for the Scalia seat. Tell me about your confirmation hearing from your perspective. The public record is what it is.

JUDGE SENTELLE: I was told that they did not anticipate any trouble and there really was no murder board or mock hearing like they do now with nominees. They met with us for a few minutes and told us don’t worry about the hearing. Senators would ask you a few formal questions. That’s not exactly the way it happened. It was on April 1, so I guess I should have known they were fooling me on that. Leahy was presiding, Strom Thurmond was the senior minority representative present – the Democrats had taken the majority between the time of the nomination and the time we got to the hearing. That caused the hearing to be a little slower than it otherwise would be coming into the House. Leahy asked quite a few questions. He confronted me on the question of I didn’t have administrative law experience. I told him I had the law

experience, and I could adapt. We bandied back and forth for a while. Then he asked me about being a Freemason, which I am. He believed that the Masonic lodge is all-white, which it isn't. We've had that conversation. Then he started in on it being all-male, which it is. So we disputed. He said, "If you're confirmed, will you resign from the lodge?" I told him I would not. He asked me about the part of the ABA canons that said that judges should not belong to organizations that invidiously discriminate. I said, "Well, I think the key there is the word 'invidious'. There is nothing invidious about an all-male fraternal order." So we spent a long time confronting each other.

Strom Thurmond took over and he was about as red as the couch you're sitting on. And he said, "Judge Sentelle, I've been a Mason since 1925." I said, "Yes, sir." He said, "Have you ever heard of anybody being accused of being discriminatory just for being a mason." I said, "Not before today, Senator." He said, "I'm proud to be a mason." I said, "I am, too, Senator." So Strom had jumped to my defense there and took as long as he could.

We left and received word a few days later that Senator Simon was going to inquire of the ABA if a fraternal order was evidence of invidious discrimination. That went on for a few weeks without a response from the ABA. The administration then contacted the ABA's committee and said, "Why haven't you responded to Senator Simon's inquiry?" And they said they had received no such inquiry. Simon then said, "Oh, we forgot to

mail it.” Then the ABA came back and said, “We have twice rated Judge Sentelle as well-qualified for his nominations, so we do not care to comment further.” Simon let it go to the floor, where Senator Kennedy eventually held the nomination. I was held for quite a long time.

MR. FREDERICK: Now at that time, who controlled the Senate?

JUDGE SENTELLE: The Democrats. In the election of ‘86, the majority swung back from Republican to Democrat, so Doug Ginsburg, who was nominated just a few days before me, got confirmed before the election, but I was running behind him. I had not had a hearing yet, so I had to start all over and mine took a lot longer.

MR. FREDERICK: Okay, so you proceed to the floor, the committee vote has occurred, and you’re now on the floor of the Senate. And then what happens?

JUDGE SENTELLE: Simon and Leahy had holds on me based on my Masonic affiliation. They came under a lot of fire from folks back home and I’m told from Bob Byrd that the Knights of Columbus and passed a resolution about how good fraternal orders are. They saw that shot being fired across their bow and Simon began to realize how many Masons and Knights of Columbus there are that vote as did Leahy.

But almost simultaneously, Kennedy put a hold on me, ostensibly because Helms along with Bob Dole and, I think, twenty other senators, had a hold on Melissa Wells, who was nominated to be the ambassador to Mozambique. I don’t think Kennedy really saw a connection. It was just an excuse to put a hold on me. They were trying to clog up the judicial

pipeline as much as possible, much like the Democrats are doing now and much like the Republicans did during a lot of the Clinton administration. So Kennedy put a hold on me and I remained held for some time. K.K. Hall, who was on the Fourth Circuit at the time – he’s deceased now – was probably the closest friend of Bob Byrd. He said, “Byrd will not let you fail. Byrd perceives this as being related to the Masonic attack and Byrd’s too good a Mason to let you fail. He’ll get you there.” So eventually, Byrd called cloture on Melissa Well’s nomination and got the votes to bring cloture. He took her nomination immediately to the floor, had a roll call, and confirmed her by something like 70 - 20, with 10 absent or something like that. So he called my nomination on the heels of it. And nobody invoked cloture and he called roll call. Helms’s people contacted me and said, “If you come over, you can watch your nomination be voted on.” I got there in time to see most of the roll call. It had begun, but I saw about two-thirds of the roll call in the gallery of the Senate. And it went down 87 - 0 with 13 absent. Kennedy voted for me. I think Leahy was absent.

MR. FREDERICK: So after all of that, fairly anticlimactic.

JUDGE SENTELLE: Yes. It’s a rare nomination that there’s a unanimous roll call. Usually unanimous votes don’t go to roll call, but Byrd took no chances. He called it to the floor right then rather than trying to keep unanimous consent.

MR. FREDERICK: And this was your only interaction, or dealings, with Senator Byrd or had you had dealings with him before?

JUDGE SENTELLE: They were the only dealings I ever had with him. Of course, he and Jesse were colleagues over the years. I don't think they were ever friends, but they were working colleagues.

MR. FREDERICK: Tell me about your involvement in the Masons because of the role that it had in your confirmation. There's obviously historical interest in what you did as a Mason and what drew you to the organization.

JUDGE SENTELLE: Well, for a lot of us it was sort of a tribal thing. My father was a Mason, my grandfather was a Mason, my Uncle Jack was a 33<sup>rd</sup>-degree Mason, as I am, which is the highest honor normally conferred upon Masons. Several of my uncles were Masons, actually. Jack and Uncle Harry had both been masters of their lodge. Jack had been every office in Scottish Rite masonry. So I was involved in some of the Masonic charities – the Shrine Hospital, Shrine of Scottish Rite Centers. I remained a contributor, although I can't do fundraising anymore for the Shrine Hospital or the Shrine of Scottish Rite Centers. I don't attend lodge very often, but I still do some speaking for Masonic organizations. I told Leahy once that he actually had been responsible for me getting a lot of nice trips because after I refused to resign from the lodge, I got invited to speak to the Grand Lodge of Iowa and Vermont and Rhode Island and Georgia and Missouri – various Masonic organizations around the country. So I don't go very regularly to meetings, but I keep my dues up in the Shrine and Scottish Rite and the regular Masonic lodge.

MR. FREDERICK: When did you become a member?

JUDGE SENTELLE: The second year I was in Charlotte. I had not rushed into joining the Masons and then my father died before I became a Mason and I regretted not having gone. My brother had joined the lodge as soon as he was eligible at 21, so our father had assisted in his initiation. I got a petition from the master at my father's funeral and then I realized I was going to be moving to Charlotte, so I never filed that petition. I waited until I'd been in Charlotte a year first. You've got to be a year-long resident in the jurisdiction of the lodge that you're petitioning. So I waited in Charlotte a year, which made it about 1970.

MR. FREDERICK: How did you become a 33<sup>rd</sup>-degree Mason and what does that mean to someone?

JUDGE SENTELLE: All Masons are third-degree Masons. You have to go through three degrees of memorization and ritual work to become fully a Mason. Beyond that, there are two subsidiary or affiliate orders, the Scottish Rite and the York Rite, that a Mason can join if he wishes to. And it's just further ritual, further memory, and supposedly, at least, more ethical lessons than the fraternity. The Scottish Rite goes through degrees from fourth through thirty-second. Then there is an honor that is conferred in the 33<sup>rd</sup>-degree, which is given only to either very active Scottish Rite Masons or to men who are 32<sup>nd</sup>-degree Masons who have distinguished themselves in public life and rendered great service to the lodge. After I refused to resign, I was named a Knight Commander of the Court of Honor, which meant I was eligible to become a 33<sup>rd</sup>-degree Mason and

Fred Kleinknecht, who is the Grand Commander of the Scottish Rite appointed me as a 33<sup>rd</sup>-degree mason. By chance, Helms and I were made 33<sup>rd</sup>-degrees on the same day. We were part of the same class of 33<sup>rd</sup>-degree Masons, along with Senator Grassley.

MR. FREDERICK: What has being a Mason meant to you in your professional life?

JUDGE SENTELLE: It gives you an entree with a lot of very nice men around the country. You meet people who you know have something in common with you. You know they've been approved by a fairly careful group of men as being ethically and morally fit to be part of the order. Therefore, you know that you've got something in common with somebody. I also have appreciated being part of the charitable work that's done by the suborders of the Shrine of Scottish Rite. The Shrine Hospital for Crippled and Burnt Children is one of the most outstanding charities in the country. When I was practicing law, I used to buy a block of tickets to the football game every year and take clients to the Shrine football game to raise money for the Crippled Children's Hospitals in Greensboro, South Carolina. I give a little of my own, but of course I can't do fundraising anymore as a judge. I did work in the Scottish Rite ritual. It is not sermonizing, but it is a moral lesson kind of ritual and I did perform a couple of roles in the ritual while I was a practicing lawyer. I haven't done that since either.

MR. FREDERICK: Can you describe what that entails?

JUDGE SENTELLE: One of the particular ones I worked on has a judge's role, actually, where someone is being tried for advancement and the ritual candidate's moral

achievement is described and what the scales are upon which men are morally weighed. And the other role, honestly, I played a devil. I played the anti-hero in another one of the rituals.

MR. FREDERICK: These are like plays?

JUDGE SENTELLE: Yes, they're plays. It's acting, some of it's pretty good acting. I understand some of the California lodges, back when you had John Wayne and Arthur Godfrey and people, like Red Skelton, were awfully good. Some of these are amateur thespians, like myself. You put a lot into your part. It's written scripts. You're not ad libbing. You're playing a set role to a set script. We had one fellow in the Scottish Rite ritual down there, Ralph Smith who was a TV personality locally, who was a wonderful ritualist. He was a great actor in the dramatic roles we had. It was a lot of fun, as well as reminding yourself of the moral teachings that the lodge is supposed to be occultating.

MR. FREDERICK: So you were in the Charlotte lodge? When you then moved to Asheville to be district judge, was there a lodge in Asheville that you participated in?

JUDGE SENTELLE: I never moved my membership. I sat in my brother's lodge some while I was up there, the West Asheville lodge and then the Biltmore lodge. The Asheville and Charlotte lodges in the Scottish Rite are sub-parts of the same lodge, so I did attend that. I was glad I got to attend that while my Uncle Jack was still around because he was a very honored member there in the Scottish Rite. Before I moved back to Asheville – Jack died before

I came back – I did go visit the Asheville lodges there to see Jack lead the ritual.

Many people in the lodges down there assume I'm Jack's son. In fact, Jack never married and had no children. Sentelle is an odd enough name that the two of us being 33<sup>rd</sup>-degree Masons, they'd assume I was his son.

MR. FREDERICK: Have you participated here in the Washington area in Mason activities?

JUDGE SENTELLE: Yes. I've spoken at the Grand Lodge for D.C. I've also, not long ago, brought the program. There's no way of describing precisely what I do. I told you more than I ought to tell you. But there's a program that the late Judge Charles Richey put together for Masonic lodges that involves the enactment of a trial. I played the role that Richey used to play. It's sort of a light program for lodges. It's entertaining. By the way, the Samuel Pompers and Benjamin Franklin Lodge were the ones that I did it for here. Had the interesting experience of being – there were probably a couple of hundred Masons present maybe ten percent were black and I would say ninety percent of the white bunch there was Jewish, so I was a real minority in that set.

MR. FREDERICK: This is here in the Washington Lodge?

JUDGE SENTELLE: That's in D.C., yes.

MR. FREDERICK: In looking back, I can't think of any other nominee who has had the kind of stink over being a Mason since your nomination. Do you think that you have put that aside as a reason to hold someone up for judicial nomination?

JUDGE SENTELLE: I think that took the stink out of it, yes. Ron Lew was nominated in California right after that. I understand that while I was being held, Leahy's staff asked him if there were any non-white Masons in his lodge. He said, "Yes, me." And that sort of made him shut up on that. In any event, I don't think there's been any problem with it since then. Interestingly, I've been told by a number of nominees after that that for the rest of the Reagan and Bush administrations, they began to hold training sessions for their nominees for circuit court where they had moot sessions and they used my hearings as training tapes for those. They played my hearing to cover how to deal with a surprise because no one expected that. They apparently thought I handled it well.

MR. FREDERICK: Had you had any meet-and-greets with any senators on the judiciary committee before the hearing?

JUDGE SENTELLE: Not really. I was asked to touch base with both North Carolina senators. Helms, of course, came over and presented me. By then Broyhill had lost and Terry Sanford, the Democrat, was the other senator. Terry did not come physically, but he sent a letter of support over. It was a very nice letter that said, "The only thing I can think of wrong with Judge Sentelle is he's a Republican. But he's a Western North Carolina Republican. If you're going to be a Republican, that's the best kind to be." But I was not asked to call on Senators the way that seems to be much more common now than it was then. I knew Strom, but I can't say I knew him well. I did go by and say hello to Strom, but that was more social than political.

MR. FREDERICK: You became invested in late 1987. Did you immediately jump into hearing cases?

JUDGE SENTELLE: I think it was about six weeks before I sat on a regular sitting. There were evidently some adjustments to the calendar to give people a chance to get out of some things and let me get them. But then, because Bob Bork dropped off with his, I pretty much just got Bob's documents. In the meantime, there were two *en banc* cases that I sat on before I had to make an appearance. I hadn't been here but a couple of weeks before I first sat on an *en banc* case.