

**ORAL HISTORY OF  
FEDERAL DISTRICT JUDGE REGGIE B. WALTON  
SECOND INTERVIEW  
APRIL 11, 2007**

My name is Harold Talisman and this is tape number two, recording the second interview to obtain the oral history of Federal District Judge Reggie B. Walton of the District of Columbia Circuit. This interview is taking place on the morning of April 11, 2007, at Judge Walton's office in E. Barrett Prettyman United States Courthouse at 333 Constitution Avenue, N.W., Washington, D.C.

Harold Talisman: Judge Walton, at the end of the first interview, I asked you for your recommendations for judges in handling high-profile cases and you were sort of in midstream in answering that question when the tape ended. Could you sort of review what your thoughts are on that?

Judge Walton: Well, I think the first thing that is important is that the judge him- or herself not make any statements about the case. Because I think judges can find themselves in a lot of trouble when they do that.

I think, second, it is important to make sure you harness the lawyers and ensure that they are not making statements about the case because there is going to be a natural inclination, I think in today's world, for lawyers to try and gain a tactical advantage with the anticipated jury pool by possibly making statements that are going to either be favorable to their position or adverse to the other side. So, I think it is important to get the parties before the court immediately and let them know that you will not tolerate the case being tried in the press and let them know that if they

do not adhere to that admonition, that you are prepared to issue a gag order.

I think it is also important to set a schedule as soon as possible to make sure that pleadings and papers are filed expeditiously with the court and to set an internal schedule for yourself and to hold to that schedule because in high-profile cases inevitably there are going to be a lot of motions filed. And, in order to expeditiously move the case, I think it is going to be important for the judge to make sure those motions are filed timely and that the court acts timely on the motions.

I think it is also important to try and harness the press to the best you can. And, obviously, that can be difficult because they are not beholden to the court and you are not really going to have much authority over them. However, I do think where there is an interest on the part of the press to cover a case, that they are conducive to working with the court and, therefore, I think it is important to try and get them before the court in some form or fashion in an informal setting where you can set some rules as to how the case will be covered. One of the things I did in the *Libby* case is I required that the print media and, separately the electronic media, designate one person to act as their spokesperson. And, along with the chief judge's executive assistant, I set up a meeting with them and we set some ground rules about how the media would have access to the proceedings. And I think that ended up working very well.

As far as jurors are concerned, which I think is vitally important because if you are going to be in a high-profile case, especially a high-profile case that is going to take a lot of time, a lot of people, because of the high-profile nature of the case, are not going to want to serve. And some people, because of the length of the trial, cannot serve or will not want to serve, so you want to make sure that you, in advance, identify jurors who can serve and who are willing to serve and to make appropriate accommodations for them once they are selected to ensure that they are treated in a way that will make them engage themselves in the process and not feel burdened by the process. And, several things you can do, fortunately we have some extra space in the courthouse now, so we took one of the old chambers and turned it into a jury room so they were not cramped in a small room. We provided them with a refrigerator, with a microwave. Because of the cost of and the high-profile nature of the cases, I had to try and isolate them from the press as much as possible. So they were picked up by the marshals at a particular location, they were brought into the courthouse and up to the jury room, they ate lunch together, they ate breakfast together, they were taken at the end of the day to a central location so the press did not have the opportunity to have access to them. And their identities were kept anonymous until after the trial had been completed. So that avoided the potential impact of the press tainting potential jurors, which I think also is very important.

And I think it is also important to treat them in that manner, to show them your appreciation and to not make the experience too much of a burden. I think it is also important, as far as the trial process is concerned, to provide detailed preliminary instructions to them so that they have an appreciation of how the case is going to proceed. To periodically, throughout the trial, remind them of their obligations of not talking about the case, avoiding media contact about the case, avoiding contact with the parties, to ensure that they are not in some way tainted. I think it is also important, at least from my perspective, to keep them engaged, especially in a lengthy trial, to permit jurors to take notes, which a lot of judges do not do, but I do. And I think it is also important, because I think it does cause the jurors to feel a greater investment in the process, to permit them to ask questions. Obviously you have to monitor that process, but I think it works very well and I think it causes the jurors to feel that they are a more integral part of the process and, therefore, will listen more intently than otherwise they would.

I think it is also obviously very important, in complicated cases, to try and simplify the jury instructions to the best of your ability, if you can. Obviously they have to be legally and technically correct, but nonetheless, I think they can be written in plain, common-sense language that makes the instructions more understandable and I think improves the process. Also, I think it is important to provide, which I do, a written copy of the instructions for the jury so they can read them again. Also, some people,

since they understand better by listening, I also tape-record my instructions and provide them to the jury so that they can listen to them again during the course of their deliberations.

Harold Talisman: With respect to your point about trying cases in the media, what do you think of the British rules, which basically are very, very restrictive in terms of what the press can say about a pending criminal case. To the point where the press can be held in contempt if they say really much more than the fact that so-and-so has been indicted and that is about it. But, what do you think of that system?

Judge Walton: I guess there are pluses and minuses that come with that. Obviously, there is a tension between the court's desire to ensure that the litigants receive a fair and just adjudication, as compared to the media's desire to report the news to the public. And that friction often does, if not compromise, at least complicate the ability of the court to ensure that fair and just decision because, while I hope and, you know, assume that the press does their best to accurately report what takes place in a case, the unfortunate reality is that many times they do not accurately report information about a case. And the end result is that misinformation is reported in the media and that can have an impact on a litigant's ability to get a fair adjudication, because, as much as you hope people can disregard what they hear and see in the media, you cannot always assure yourself that that is going to be the case. So there is that tension that exists, but I think we have a historical perspective in this country, as it relates to the First Amendment, that

would make that type of process very difficult in our country. And I think there is a value to an open and free press. So, while I think there are some benefits that conceivably could be derived from that process, I just do not think it would work in our society.

Harold Talisman: Backing up a little bit to your appointment to the Federal District Court, what were the factors that resulted in your appointment, both professional and political factors that led to that?

Judge Walton: Well, I would like to believe that I performed well as a Superior Court judge and, because of that, I was tapped for the position at least in part. Realistically, however, I think it is inevitable that my appointment was the result of having made the decision to leave the Superior Court in 1989 and take a position with the first Bush administration in the Drug Czar's office as the Deputy Drug Czar under Bill Bennett. And I believe I performed well in that position. And then, after that, I went over and worked as the Senior White House Advisor for Crime and I believe I did a good job in trying to champion the president's crime bill that was on the table at that time. And, because of that, when the current administration was elected, I did receive a call from the White House. They actually wanted me to take the position of United States Attorney, but at that point in my life I was sort of past that. That is a job I would have loved to have done at one point in my career, but at that point I just thought I could not make the financial sacrifice to do it. And I enjoyed being a judge. I had left the bench once and did not desire to do that again. So, I told them that I really

was honored and flattered that they would ask me to do it, and they asked, “Well, what would you like to do?” And I told them I would like to be on the Federal District Court. And, they made it happen.

Harold Talisman: I wanted to talk a little bit about the relationship of the judges on the court. Can you describe that, as to how one judge relates with another on the court? What goes back and forth between you in terms of helping each other, the collegiality of the court, and so on?

Judge Walton: I think we have a very collegial court. We do interact with each other. I have never had a situation where there was an issue I had about a case and needed some assistance where I felt I could not pick up the phone and call any of my colleagues and get them to spend the time and talk to me. However, I think historically in this court, there has been a perception that we are independent judicial officers who act and perform in a vacuum. And, therefore, the degree of integration and mixing that maybe you see, for example, on the Superior Court is not as great. And I just think there is a historical perspective to that. But, I think with the current makeup of the court that there isn't any reticence on the part of any of the judges to spend time talking to another judge about a legal issue that that judge has. I think the lunchroom that we have now is very helpful because even a few of the circuit judges will come down and have lunch periodically. And I think it is good for the process to have the judges know each other, respect each other, like each other, even when it involves an appellate judge who may have to overrule you sometimes. I mean, you have to

accept that that is a part of the process, but I do not think we have to be enemies just because they are the appellate judges and we are not. But I think the fact that we have the opportunity to meet almost on a daily basis, at least I go down to the lunchroom, and have an opportunity not only to discuss legal issues with your colleagues, but also issues just related to life and what is going on in the world, I think is important for the collegiality that I think is important to a court of this nature.

Harold Talisman: What about the relationship with the court of appeals judges? What kind of relationship do you have there and how do you intermix with them?

Judge Walton: I have always had a very cordial relationship with all the judges on the court of appeals, but I think there are a lot of the judges on the court of appeals who feel a little uneasy about mixing on a regular basis with district judges because of the fact that they have to second-guess us and sometimes make decisions that are adverse to what we decided. And, as a result of that I think some of the judges take a position that they are not going to intermix with district judges.

I think that is a mistake because, as I say, I think we are professionals and, I mean, I appreciate that as a trial judge I have to make decisions without the degree of deliberation that federal judges, I mean that appellate judges, have the luxury to engage in. And plus they are three as compared to one and I would like to think that three, you know, smart people can sometimes make a decision that may be more correct than one smart person.

So, I am not offended when I get reversed. There are people who I know, for example, on the District of Columbia Court of Appeals, who I am very good friends with and have had dinner with and they had to reverse me periodically. And I tell them, well, that does not mean you are right, you are just last. But that is the way the process works.

I think it is unfortunate because, I mean, one of the things that does not happen here that used to, but does happen on other circuits, is that district judges will periodically sit by designation on the court of appeals. And I think that is good and I think it is good because, and it can cause tension because when I was on the Superior Court, I did on one occasion sit, by designation, on the District of Columbia Court of Appeals and had to reverse one of my very good friends who was on the trial court and it created a little tension. But, we got over it and I think it is good for district judges to have the opportunity to go on the appellate court, to see the law from the perspective of that process, from the perspective of an appellate judge because I think it only enhances the trial judge's ability to do his or her job.

I think that the same is true, which very seldom happens although occasionally, for appellate judges to come down and sit as district judges because I think sometimes they do not have an appreciation of what our job is and how difficult our job is and I think it would only enhance their ability to properly evaluate our decisions, if they had that experience. Because, unfortunately, there are a lot of appellate judges who have never

been trial lawyers, they have never been trial judges and therefore do not have that perspective, which I think can be very important.

Harold Talisman: What about the relationship with the United States Attorney's Office and the private bar, the private attorneys, and so on?

Judge Walton: I mean, I try and go to events where I have the opportunity to, you know, mix and have interchange with the United States Attorney's Office, the Public Defender's Office, and the private bar, I think it is important for that to occur. But, again, there is a level of separation, a wall that sort of exists, between the various entities which are somewhat understandable. I mean, if not just from the standpoint of the realistic barriers that exist between judges and the bar. From a perception perspective, I think it is important that, while we can obviously periodically intermix with members of the bar, I think it is dangerous for the public to have the perception that there is too much of a relationship between a judge and a lawyer, because even though I am confident that regardless of how friendly I may be with someone, that is not going to impact on how I decide a case. The perception of the other litigant who knows about that relationship and feels that they did not get a fair shake, even though it may have been the right decision, may have the view that they did not get a favorable decision because of the friendship and the relationship between the judge and the particular lawyer. So, while, you know, I think it is important for there to be a level of interchange between members of the bench and bar, I do think there has to be some level of separation also.

Harold Talisman: What about with the relationship with your court staff people, that sort of thing?

Judge Walton: I think that it is important and I do try and, you know, have a positive relationship with my court reporter, my courtroom clerk. Not so much with the people in the clerk's office, cause I do not see them very often. But I have a Christmas party every year, and I have a place with my wife down on the Chesapeake and I will have a cookout during the summer and I will invite court staff down there. Because I think it is important to show our appreciation to court staff and to show that, you know, while we are judges and they are staff, that nonetheless we all have a job to do together. And to the extent that we can have a positive relationship with each other outside of the courtroom, I think that only enhances that.

Harold Talisman: Now, you have law clerks assisting you, I guess?

Judge Walton: I have, right now, I have three law clerks.

Harold Talisman: Three law clerks.

Judge Walton: Right.

Harold Talisman: And how do you select those law clerks? And, how do you deal with them? What is the relationship there?

Judge Walton: Well, I mean this is a tough job for not only the judge, but for the law clerks who serve the judge on this court. Because of the nature of the cases that come to this court, being the nation's capital, the diversity of cases that we get because, this being the federal seat of government, are sometimes daunting. I mean, you may handle an antitrust case one day, a

patent case the next day, a patent infringement case the next day, an employment case, a criminal case, an environmental case, I mean the list goes on and on and on. And a lot of these areas are very complex areas and a judge needs good counsel from law clerks, especially when you are involved in cases involving a lot of money and a large number of lawyers who have nothing but an expertise in that particular area. Obviously this is what they have done for their life's work and this may be the first time a judge and a law clerk have encountered this particular area of the law. So the learning curve is very, very, very sharp and you have to have really good clerks in order to help you make the right decisions.

The process of selection, I mean, I ultimately have decided that several years of experience practicing is important before a clerk comes and works with me. I think it is very difficult for a clerk coming right out of law school with no practical experience to do a clerkship in this court. That is not to say that some judges do not use that process and feel it is successful, but I think my clerks serve me better if they have several years of experience.

The good thing is that most of the law firms are very happy to have their young associates come work with me for several years, because it only enhances their skill level. They are never going to do the, or have the demands, that they are going to have at their firm at that point in their life as compared to what they are going to have as a clerk working for me. So, I will not hire right out of law school, unless I have had somebody who

interned for me, who did a very good job as an intern, but I am still not going to bring them on board immediately out of law school. They are still going to have to go to a law firm or a United States Attorney's Office or wherever they are going to go and get several years of experience. And then come with me and then they go back to their firm or do whatever they are going to do.

So it is a very tedious process because you want to make sure you have people who write well, who research well, who are extremely dedicated, hard-working, and have a good common sense of right and wrong. And once they are on board, primarily their work, I mean they may come into court if they have a case that is of particular interest to watch the proceedings, that their work is primarily to address the various motions that come in. And they will draft draft opinions or draft orders and they will submit those to me for my review.

We also have a number of interns, generally we have five to eight interns, who are either first- or second-year law students, who work in chambers. They will work, be assigned to one of the particular clerks and they will be given assignments, then the clerk has the responsibility of reviewing their work before ultimately the draft opinion is submitted to me.

Harold Talisman: Can you give me a sort of overall broad overview of the kind of cases you have handled since you have come on to the Federal District Court?

Judge Walton: One of my big cases I had initially was an antitrust case where Libbey Glassware was seeking to try and merge with another company because they were of the view that it was very difficult for them to compete in the world economy, because in other countries the labor costs were significantly less than what they are here. And, therefore, these other countries who were competing with them were able to produce their product at a lower price and they felt that they were losing their competitive edge. And so they wanted to merge, consolidate their operations, because they thought that would cut down on their production costs.

The Federal Trade Commission was of the view that the merger would be anticompetitive and, therefore, filed an injunction to block this attempt to merge. And I remember my law clerk, we had our first hearing in the case, came in and he was all wild-eyed and, you know, sort of in a sense of intimidation. And I asked him what was wrong and he said there are just so many lawyers in the courtroom and this is their expertise. And there were four parties, five parties I think, and I thought maybe there would be four or five lawyers per side. I walked into the courtroom and the entire courtroom was totally full with no empty seats. In fact, it was standing room only. And, obviously, that was a little intimidating, not knowing anything about antitrust law.

I have had some interesting patent cases. I have an interesting patent case right now that has already had substantial litigation in Germany.

A large number of our cases are employment discrimination cases, I would say a third, at least a third, of our calendar fit in that category. Another third of our cases are review of agency decisions, which can range from cases where there is an attempt to stop the building of a road in someplace in the West, which is a case I had, for environmental reasons.

I had a case where the State of New Jersey decided to authorize a bear hunt because the bear population had grown to the point where they were posing a threat to humans. And there had not been a bear hunt in some time in New Jersey. And the bears, I guess are pretty smart, because in New York they have bear hunts, in Pennsylvania they have bear hunts and there is a location where these three states connect. Apparently, the bears knew not to come in, knew not to go to Pennsylvania or New York, so they were gathering in New Jersey at a number that was starting to pose a danger and they had broken into several houses, injured several people. So, after about thirty years of not permitting bear hunting, the State of New Jersey permitted bear hunting to go forward and a request for an injunction was filed by an animal rights group to stop the bear hunt. And I concluded, because a part of it was going to take place on federal park land, and I decided that there was no basis to deny the hunt. And as a result of that, I received hundreds of pieces of hate mail, alleging that I

had permitted the murders of the bears to take place, and so that was an interesting case.

I have the *Steven Hatfield* case right now, which is the case that is a spinoff from the anthrax murders that took place and he has never been charged, but he was named as a person of interest. And he now has filed a Privacy Act suit alleging that his career has been destroyed by having been named as a person of interest. Obviously, I had the Scooter Libby case, which was probably the most high-profile case I have handled. I have had a number of cases involving [End side 1]

Harold Talisman: Why don't you continue with the kind of cases you have had?

Judge Walton: I have handled a number of cases involving the Native American community and, again, because this is the federal seat of government and the Bureau of Indian Affairs is located here and the Indian Health Service is located here, even though you would think those cases would be handled out in the west where most Indians reside now, those cases, nonetheless, find their way into the District of Columbia.

I have got a case right now where a small tribe in California is seeking recognition as a Native American community. I had a very troubling case involving the Seminole Nation, who were displaced from Florida and moved to Oklahoma, and they had filed a suit against the federal government alleging that their land had been illegally taken in Florida. And Congress, through legislation, created a huge trust fund involving billions of dollars that was designed to compensate the Indians

who had lost their land. And a number of, not a significant number, but a fairly large minority of the Seminole Nation were former slaves who had fled into Florida from the South and some were made citizens of the Seminole Nation, some were slaves. They were moved also because they had become part of the Seminole Nation, and some had even married Indians. And they wanted to share in this trust fund also and the majority of the Seminole Nation said they were not landowners and, therefore, had no right to any share of the trust fund. And there had been an ongoing struggle between the two groups for a number of years and there had been significant litigation actually out in Oklahoma before the federal court there. And then what brought the case here was that the Seminole Nation decided they would change their constitution and the result of that change would excommunicate all of the black members of the Seminole Nation. And the black members brought suit alleging that they could not change the constitution in that manner. And I ultimately concluded that, based upon the treaty between the United States and the Seminole Nation, that in order for the constitution to be changed, which had been approved by Interior, that there had to be a buy-in for that change by the Department of Interior, which Interior had opposed because they thought the change was discriminatory. And obviously that was a very interesting case.

I have had other Indian cases involving oil and gas rights in which the Indians believed that their rights have been undermined by various

parties. And those, I mean, that is a flavor of the types of cases I have handled.

I had, before the Congress enacted legislation to change or to divest this court of jurisdiction, I had about 200 of the Guantanamo Bay detainees, which were very interesting cases. But, because of the change in jurisdiction which now vests in the circuit court, I no longer have those cases. But it was interesting, you know, working with those cases.

I have had a number of cases involving national security matters, questions of national security, of executive privilege. It has been an interesting time, post-9/11, because the government, the executive branch is engaged in ongoing efforts to try and ensure that we do not have another 9/11 and some of the things it has done have created some friction between the civil rights, the human rights community as compared to what the executive branch is trying to do. So I have had a number of those cases.

I had one case where an Islamic charity was accused of funneling money to terrorist groups under the guise of charitable contributions and that was a tough case because this organization claimed that was not the case. And one of the difficulties is, not difficulties but I guess one of the anomalies of these type of cases is the fact that many times the government will take the position that in order to advocate their position, they have to submit information to the court ex parte, because to reveal that information to the other side would potentially undermine the

executive branch's efforts to protect the country and ensure that we do not have another 9/11. So, national security has to be balanced against the rights of the other parties to have access to that information, and I think it is always somewhat disconcerting for judges to know that you are making decisions based upon information that one party cannot have knowledge of. And I have had a number of cases where that has been the case.

I think the 9/11 event has changed the landscape in that regard. But those are some of the types of cases that I have handled. It is a fascinating job, it is a challenging job, but it is also a daunting job, which, at times, I think anybody who is honest will admit is sometimes overwhelming.

Harold Talisman: How are the cases assigned to the judges?

Judge Walton: It is a totally random process. To some degree it has always been random, but there had been a process some years ago where the chief judge could make a decision that particular cases, maybe because of the nature of the case and the nature of the judge's background, should be assigned to a particular judge. And, during the Clinton years there were some allegations that cases were being inappropriately funneled, involving Clinton administration personnel, to certain judges who had been appointed by Clinton. I mean, I do not think that that would make a difference as to how the judge decided the case but, again, perception is important. So, as a result of some allegations that were made of inappropriate assignments, the process is now totally random. So there is

some kind of a process whereby every fifteenth type of case goes to the judge whose number comes up at that particular time. So, the process is totally random and some do not believe that is the case. I mean, there are some who will take the position that the process is not random, but I can assure everybody that it is totally random and that nobody manipulates the process. And, if you get a case, it is just fortuitous that that happened.

Harold Talisman: So, there is no effort to sort of assign a case to a judge because he has had other cases like that in the past and therefore has some expertise in it?

Judge Walton: No.

Harold Talisman: When a case is assigned to you, how do you start preparing for it? What is your sort of initial stages you go through?

Judge Walton: Well, I rely on my clerks a lot. And, I hire good people and I expect that they are going to work hard and they are going to familiarize themselves initially with the case. And then we will set a hearing in every case, shortly after the case comes into the system. And, prior to that initial hearing, my clerks will prepare a memorandum for me outlining what the case is about, what the various issues are. And I will review that, then I will come back, ask them questions about it, in preparation for the hearing.

One of the things I do, which I think is very important to make sure the cases do move along, is to always have a next date. I think it is a mistake for judges not to have something calendared for some event to take place, so that cases do not fall through the cracks. Case management

has become very important because of not only the number of cases, but the complexity of the cases. So, judges have to have in place a system to ensure the case is expeditiously moved through the process.

One of the other things I have done is I have put together general orders, which are fairly extensive, outlining to the parties what my procedures will be. And as soon as the case comes into the system, we will send that out. After every hearing that we have, we will send out a scheduling order letting the parties know what is expected of them and what the timelines are.

Harold Talisman: Do you require the lawyers on each side to submit pretrial briefs to sort of give you their idea of what the issues are in the case and so it might get you sort of a picture of what each side is contending?

Judge Walton: Well, the parties are required, pursuant to both the national and local rules, to meet and confer before a pretrial hearing is going to be held. They then have to submit a joint statement to the court setting forth what the case is about, what the causes of action are, what the potential defenses are, who the witnesses are, what the witnesses will say, so, yes, they are required to. And what the issues are and at that pretrial conference, if I am not able to resolve issues that are going to arise during the trial, then I will require the parties to submit motions in limine prior to trial, so that we can resolve those and not have delays during the course of the trial itself.

Harold Talisman: Have you had incidents of sort of a personal conflict between your philosophy and the rule of law over your judging?

Judge Walton: Yes, I have. I have very strong views about what drugs are doing to our society and feel that we have to aggressively try and address the problem because of the problems that drugs create for us. But, one of the areas that has been very troubling to me is the disparity between crack-cocaine and powder-cocaine sentencing. I understand why there is a perception that maybe crack cocaine in certain circumstances should be treated with a harsher sentence than powder, but a 100-to-1 distinction, it seems to me, is excessive. And the end result is that, just because of demographics and socioeconomic reasons, powder cocaine in this city is primarily going to be possessed and used by individuals of a higher socioeconomic class. Whereas crack cocaine, because of the lower price level, is going to obviously be distributed and consumed by a lower socioeconomic class, and racial class, in this city. And, as a result of that, you see a large number of young black men going to prison for significant periods of time who are charged with crack cocaine offenses. And, I am not saying that they should not be punished, but when you see the vast disparity between what this young black male is getting for having been involved in crack cocaine distribution as compared to what maybe a white male, who is a college student, is getting for being involved in the distribution of powder cocaine, I find to be very troubling.

Harold Talisman: What have been, in your view, the more difficult and more memorable cases that you have had on the bench?

Judge Walton:

Well, the antitrust case I mentioned, just because of the complexity of the legal issues. I have this patent case, I mentioned, again an extremely complex legal issue. The *Libby* case, which had extremely complex legal issues of first impression, because of the, at least, initial indications of the desire to introduce classified information. And then, in that case, the amount of lawyer power that was brought to bear just made it very demanding.

One of the areas that I find also very demanding involve *pro se* litigants, because we have a large number of *pro se* litigants in this court, which was a significant surprise to me. I just did not anticipate that would be the case. But I think because of the nature of the remedies that are sought over here, many times having underpinnings in the Constitution, a lot of cases find their way into this court. And you find a lot of *pro se* litigants trying to transgress the system without the professional expertise to do it and I find that those cases are very, very, very demanding because the appellate courts have said that you have to give special consideration to the fact that you have got a *pro se* litigant before you. And sometimes you have to read between the lines and make assessments as to what they are actually alleging when it is not patently clear that that is, in fact, the case. And, I think it is important that we treat those cases with the degree of deference that we should, because those individuals, even though they are trying to navigate the system without the assistance of counsel, will walk away from the process with a perspective about it that can shape

their views about the nature of our government, and I think that is very important.

I had one case, and this woman took the case to trial and it was not much of a case, but there was not sufficient grounds to throw it out on technical grounds. So, we went to trial before a jury and the jury made a decision that she had not proven her case. But, after the trial, and it made me feel good, she said, “Judge, you gave me a fair trial, that is all I wanted, that is all I was entitled to.” So, I hope she walked away from the process, even though she lost, feeling that she was treated fairly, and I think that is important.

Harold Talisman: Getting down to the administration of your people, and so on, what sort of procedures and policies do you have for administering your own chambers and the courtroom?

Judge Walton: I expect people to be on time. I think it is important that litigants and lawyers not feel that they are sitting around waiting for me and losing time from work or bills are being generated because I am not timely. So, I insist that my staff be on time.

I do the best I can with a sometimes overwhelming caseload to make sure that we try and resolve cases as quickly as possible. That we address motions as quickly as possible, which can be difficult because sometimes the motions are very complex. The records can be voluminous and all of that has to be reviewed, so sometimes it takes longer than one would like.

I tend to not micromanage my staff. Again, I try and make sure I hire good people. I put significant demands on them, I let them understand what those demands are, and I expect that they will perform. So long as they do that, I am not hovering over them. If they have other commitments they have to perform, if they have to maybe one day, if they have a child and have to work at home, that is fine. The bottom line is that they have to get the work done. But I try and make sure that my staff is working in an environment where they do not feel intimidated, but, at the same time, appreciate what the demands are.

Harold Talisman: You touched a little bit on this in your other answers about the, what is the judge's role as the case manager?

Judge Walton: Well, and I think it is important to have a system in place. I think it is important for the parties to know early on in the process what your expectations are and that is why I have reduced to writing what my procedures are, and I get that to the parties very early in the process.

One of the things I tell them is their obligation to be civil to each other, because I think there has been a denigration in the civility that exists between lawyers in today's world. I think that is unfortunate, but it is, I think, the unfortunate reality of the way some lawyers practice law.

But as far as managing the cases, again, I let the parties know early on what I expect of them. I will get the parties in before me as soon as I can and set a scheduling order that tells the parties what has to be done and by when. I do provide some level of flexibility because I know

lawyers are busy, so as long as their requests for extensions are reasonable, I will give those to them. The parties understand that when we have hearings, they are expected to understand their case and be prepared to make appropriate representations in the case.

I impose upon my staff and myself some fairly stringent timelines once things are filed. We have to make a report to Congress every six months indicating those cases that are more than three years old and those motions that are over six months old. And I try to ensure that those numbers are very low and my staff understands that I expect that they are going to shoot for us not having to report any cases. It is inevitable that sometimes you have to report cases, but we try and make sure that we do not have to report any cases. And, I think if we are doing that, then we are moving our cases along fairly expeditiously.

I do refer all of my cases, absent a situation where it is clear that settlement is not going to occur, I do require that the parties participate in either mediation, arbitration, or some form of alternative dispute resolution.

Harold Talisman: What about the value of judicial counsels and the, sort of, Circuit Judicial Conference and its committees? Have you participated in those?

Judge Walton: I serve on the Circuit Judicial Council, which reviews, I mean we do a number of different things. But one of the things we do is we review complaints that are made against judges. And, I also serve on the National Criminal Law Committee, which meets twice a year, and then we will

communicate with each other by e-mail or telephone throughout the year on issues that come up that will impact on the overall court system, but have a particular criminal law interest or perspective.

I have testified, now, twice before the sentencing commission regarding criminal law issues, based upon my position on the Criminal Law Committee. One related to the disparity between crack and cocaine-powder sentencing, and the other regarding some change in laws related to child sexual assault cases, and to what extent the sentencing guidelines should mirror the very tough mandatory minimum sentences that Congress enacted. So, I think it is important for judges to be involved in that type of activity because, ultimately, it has an impact on national policy or circuit policy and it is interesting to be involved in that.

I also, in addition to my judicial responsibilities, was asked by the White House about two-and-a-half years ago, to chair a commission called the National Prison Rape Elimination Commission, which is looking at the problem of prison rape, pursuant to congressional legislation. It was enacted in 2003 and that has been a real drain on my time. It is a nine-person commission. As chairman, there are meetings I have to hold, and ultimately we have the responsibility of producing a report of our findings and propose standards for the adoption by the attorney general and state and local governments to try and curb the incidents of prison rape.

Harold Talisman: What do you think are the qualities for a good judge and a lawyer or court administrator? What are the qualities they have to have?

Judge Walton: Well, my view is that you have to have a fundamental [end side B]