

**ORAL HISTORY OF  
FEDERAL DISTRICT JUDGE REGGIE B. WALTON  
THIRD INTERVIEW  
MAY 8, 2007**

My name is Harold Talisman and this is tape number three recording the third interview of Federal District Judge Reggie B. Walton, of the District of Columbia Circuit. This interview is taking place on the morning of May 8, 2007, at Judge Walton's office in the E. Barrett Prettyman United States Courthouse at 333 Constitution Avenue, N.W., Washington, D.C.

Harold Talisman: Judge Walton, at the end of the last interview, I had asked you to set forth what you consider to be the qualities of a good judge, lawyer, and court administrator and the tape ended and you were sort of in mid-sentence. What, in your view, are the qualities of a good judge?

Judge Walton: Well, I mean, I think a good judge has to have a certain level of experience. And I think that is especially true for this court because of the complexity of the issues that we deal with and the diversity of subject matters that we have to deal with. I think a good judge obviously has to have a certain level of intellectual capacity to deal with the complex issues we deal with. And I think a good judge, on this court especially, has to be someone who is willing to work long hours, because the amount of work and the complexity of the issues are such that you just have to put in a lot of time if you are going to stay abreast of your cases.

I think a good judge also has to have a good demeanor, a good judicial temperament. I think it is important for judges to treat people who come before them, both lawyers and litigants, with respect. I think that is crucial because when people leave the courthouse, whether they

win or lose, I think they should feel that they were treated in a humane, appropriate manner. I think judges, good judges, have to be aware of the fact that parties want decisions. And I think when judges sometimes sit on cases for too long, that old adage that, “justice delayed is justice denied” I think is true. So, while a good judge has to be thorough and has to try and address all of the issues with a certain degree of thoroughness that are brought before him or her, I think it is important for that to be done expeditiously, which is another reason why I think judges have to spend a lot of time working on their cases and work very hard. Because, in order to stay abreast of your cases, it just takes a tremendous amount of time. I think also it is important for judges, or good judges, to have a level of involvement with the community.

I think it is important for judges to be willing to interact with the community in an educational setting. I think it is important for judges to try and educate the citizenry about the importance of serving as jurors. Being willing to meet with young people who often come to the court and try and encourage them to not only potentially be a part of the system, but what their obligations are as citizens as far as the system is concerned. I think those are some of the core ingredients that I think make for a good judge.

Harold Talisman: Now, you spent a good amount of your career as a prosecutor. Were there any judges who you felt fit that example and you tried to emulate once you became a judge?

Judge Walton: Yes. I did not spend much time trying cases in this court, so most of my experience was in the Superior Court. I thought Judge Braman was an excellent judge. Judge Sylvia Bacon I thought was an excellent judge. My mentor, really, was Judge Moultrie, who I tried a number of cases before. I think those three are three individuals, although there were a number of others, who I think epitomize what a good judge should be.

Harold Talisman: Getting to the question of lawyers, what in your view are the qualities of a good lawyer?

Judge Walton: Well, I think a lawyer has to be someone who is committed to the mission of the law, which obviously means they are going to be committed to their respective clients' interests. Again, I think a good lawyer has to have, obviously, a certain level of intellectual capacity to deal with complex issues, and has to be willing to work very hard and appreciate what their ethical obligations are, not only to their clients, but also to the profession. I think, unfortunately, there are a lot of lawyers in today's world who put winning at a premium, it becomes the bottom line for everything. And, as a result of that, you see lawyers sometimes stepping over the line and going beyond where they should go because they are willing to try and win at all costs. So I think it is important to appreciate that while you have to fight hard for your clients, that there is a line that you just cannot step over. Because I think when you do that, you do it at not only a potential personal expense, but I think to a greater degree, to the expense, at the expense of what our profession is supposed to be about. So, I think

hard work, dedication, commitment to the profession and commitment to your ethical standards are key ingredients to what a good lawyer has to have in order to be effective.

Harold Talisman: And, what about court administration? What are the qualities of a good court administrator?

Judge Walton: Innovative, I think, with the new technology. I think a good court administrator, because of the number of cases that we deal with and because of the complexity of the cases, has to constantly seek to come up with innovative ways to try and process cases. I think also a good administrator has to try and devise a system that makes the ability to litigate cases as inexpensive as possible, because I think one of the problems with our system of justice in America is that if you have a lot of money you get one quality of justice, if you do not, you get another. And, to the extent that a good court administrator can streamline the process and do it in such a way that it conserves resources so that litigants who do not have a lot of funds, nonetheless have the ability to have access to the system, it is obviously very important. And good administrators also obviously have to have good people skills because they are going to be in the supervisory position of individuals who work under them and I think it is important for them to have good people skills because you have to keep the troops happy if they are going to perform at the level you expect.

Harold Talisman: On the federal level, judges are appointed rather than elected. What are your views concerning that? In many states judges are elected rather than appointed. What are your thoughts on that?

Judge Walton: I just happened to have been, last week, down in Louisiana speaking at a conference that the Louisiana Bar Association, in conjunction with a law school in Louisiana, held on the issue of judicial independence. And one of the issues that came up was the issue of whether there should be elected as compared to appointed judges. And the judges in Louisiana are elected judges and they, I think, took offense to my position that the election process was not the most appropriate way to have judges elevated to the bench.

My main problem with the election system, no system is going to be perfect, I mean, I think the ideal system is a merit selection system like they have in the District of Columbia court system where you have individuals from various components of the city who comprise that commission and truly try and make decisions about whose name should be sent to the president based upon professional merit. And I think that system ensures that you have a certain level of competence as far as the individuals who are ultimately selected to the bench.

With an elected system, there is no guarantee that is going to be the case because if someone has good charisma and the ability to raise money, they can get elected. And that does not mean that they are necessarily going to be qualified for the position. However, I do not say

that to denigrate elected judges because I know a lot of elected judges who are excellent. But, one of the problems with the electoral system is that you need money to win. And, in our society today, you even need more money than used to be the case in the past.

So you find, I have a friend, for example, who is running for the Pennsylvania Supreme Court and he is an excellent judge and I think he would be an excellent addition to the bench, but he did not get the support of the state Democratic party, even though he had the highest rating from the bar as far as his abilities were concerned. And the only way now he can potentially win is to travel throughout the state trying to go to the various counties to try and get the counties' support for his candidacy, and that takes a lot of money. And who is going to give money to a judge to run for office? It is going to be lawyers, by and large. And I just think that there is something unsavory about lawyers giving money to a judge for election purposes, even though the judge will have to report who gave him the money, because, and with my friend, for example, I am totally confident that even though lawyers will give him money, that he is not going to show them a preference. But perception sometimes is reality and if the populous feel that judges are collecting money from lawyers, there is going to be a belief that judges are being bought.

And I think it becomes even more problematic when you have litigants who end up being represented by lawyers who did not make a contribution to the judge as compared to a lawyer who did make a

contribution to the judge. Even though the judge may make a fair and just decision, the unfortunate reality is that that litigant who loses, if they do lose, and their lawyer did not make a contribution or they are representing themselves pro se and did not make a contribution, they are probably going to feel, whether justly or not, that they did not receive a fair shake. So I think there are inherent problems with the electoral process and I would hope that at some point states will realize that and move to a merit selection process.

The other problem that you have with the electoral process, take Pennsylvania, which is my home state, for example. In the history of the state, even though you have a sizeable African-American population, there has only been one African American who has ever been selected to the Supreme Court because you have to win statewide. And even though there is a sizeable number of African Americans in Pennsylvania, they are nowhere near the majority. And, as a result of that, it becomes very difficult for an African American to get elected to the bench. And I think that is unfortunate because I know, for example, with my friend, the governor is supporting him, so if the governor was the appointing authority, and based upon the bar having rated him as the most qualified candidate, I think it is inevitable he would be appointed to the bench. He may not win, however, because of the obstacles he otherwise has to overcome. So, I just think that the merit selection process, which is not ideal, is preferable over the election process.

Harold Talisman: What about the question of appointment for life? What is your view on that?

Judge Walton: Well, I think appointment for life is crucial. The Founding Fathers obviously felt that was necessary in order to isolate judges from political influence. And I think there is good reason for that. The Superior Court and the District of Columbia Court of Appeals have fifteen-year terms. They are not life terms, but assuming you have conducted yourself appropriately during that fifteen-year term, it is inevitable that you are going to be reappointed. So, in a sense, they are life positions also. And, I think that if you do not have a life system, the period of appointment should be significant because I do not think judges should have to be concerned about whether they are going to be able to keep their positions when they have to make controversial decisions.

I teach out at the National Judicial College (state judges) in Reno, Nevada, and I try and ask very provocative questions during one of the courses I teach, which is entitled, "Role of the Judge." I ask the judges in the class how they would rule regarding an issue that was a hot-button issue in the community at that time and, one of the judges, who is an elected judge, said, "Well how close is it to the election?" And I think that is unfortunate that justice may be dictated based upon when an election is going to be conducted. I mean, you would still hope that most elected judges do not let those types of influences impact them, but you know, judges are human beings, too. And, if you enjoy being a judge and

you want to stay on the bench and you find yourself in a situation where you have to make a decision that conceivably is going to enrage a certain portion of the community and therefore jeopardize your potential of remaining on the bench, I think, obviously, that becomes problematic.

Harold Talisman: What, in your view, have been the changes in the demands on judges over the period of time that you have been a judge?

Judge Walton: I think the major demand is the new technology that we have. And also, just that the world is becoming a more complex world. And some of the issues that we are being asked to decide, for example, in the area of intellectual property, extremely complex patent cases. I think as the world becomes more complicated, obviously the law becomes more complicated. And as a result of that, the demands on judges become more difficult. I think those are probably the most significant changes that have increased the demands on judges.

Harold Talisman: Do you think that there should be more specialized courts that sort of become concentrated in one area so that they have more expertise in that one area?

Judge Walton: Well, there are conflicting views on that. I do not know. I mean, I think I would be opposed to that. We do have some specialized courts like the tax court and the court of claims, but I think having a general court with judges who deal with different types of issues also has an advantage. I think if you have somebody who does nothing but one area of the law, I think they can become so mechanical that they lose the touch that I think

judges need to bring to bear in appropriately and judiciously deciding cases. So, while I can see how in some areas specialized courts can be helpful, I do not think it would be good, for example, if you had a court where you had judges who did nothing but employment discrimination cases and you had judges who did nothing but criminal cases and you had judges who did nothing but certain types of other civil cases, I do not think that would be an appropriate way to resolve cases. But, in certain discrete areas, I can see how there may be a benefit.

Harold Talisman: Judges are, I guess, permitted to bring in their own experts to help them with cases. Have you ever done that in technical cases?

Judge Walton: I have not. I have a case now where I know if the case proceeds beyond the stage that we are now, it involves a very complex patent case involving computers. I know in that case that I will have to have that type of expertise to educate me about the case. But, up to this point, no, I have not used that service.

Harold Talisman: What about the workload? Has that increased over the years for you or is it about the same?

Judge Walton: Our workload on this court is very unique because of this being the site of the federal government. And, while our numbers may not appear to be as significant as other districts, the nature of our cases makes the demands, I think, a lot different than what you have in other districts. In other districts you have a lot of diversity cases. We do not have a lot of that. So, you have a lot of accident cases and things of that nature, which I am not in

any way denigrating the significance of those cases, but they do not bring to bear the level of complexity and difficulty that we have. So, while our caseloads are not huge, because I have about 160 civil cases and probably about 20 to 25 criminal cases. But in the criminal arena, for example, many of the cases now that we handle, which was not the case in the past, are international drug conspiracy cases. With the terrorism problem that we have had, many of our criminal cases fall within that category and there are some laws on the books that are very complex. If you have a case involving classified information, obviously there are difficult issues that come into play there. In some of our cases, both criminal and civil, there are issues that come up that implicate the First Amendment because litigants are trying to acquire information from the press. And the press obviously does not want to reveal that information, so that you end up with a constitutional battle over whether they have to produce it or not and whether, if they are required to, you are transgressing the First Amendment. So, while our caseloads in numbers are not as significant as what you see in other districts, the complexity, and not only the complexity, but I mean it is not unusual to get a case with an administrative record that is just voluminous and to try and get through that administrative record is a monumental task. So, yes, I mean our caseloads are significant and they place a lot of demands on every judge on this court because of that.

Harold Talisman: Has there been a change in the quality of lawyers over the years in your view? Has the quality changed for the better, for the worse?

Judge Walton: I think they are, you know when I started out 30 years ago practicing law, I saw very good lawyers then and I see very good lawyers now. I think one of the other problems that we have with our system of justice in America, in addition to the amount of money somebody has having an impact on what quality of justice one gets, is the fact that while we have a lot of lawyers, and we have a lot of good lawyers, we do not have enough good lawyers. There are a lot of bad lawyers and a lot of lawyers who cut corners. And as a result of that, they do not really do the quality of work for their clients that they should have. So I think that, obviously, the number of lawyers has increased significantly, and I think, just as in the past, there are a lot of very good lawyers, but I think there are also a lot of very bad lawyers.

Harold Talisman: You have, I noticed, had quite a few situations where you have taught, gone out on teaching assignments, I assume for short-term periods. What, in your view, is the value of that, doing that?

Judge Walton: Well, I think teaching obviously is giving something back and trying to ensure that lawyers who are in the profession, who you are providing instruction to, judges who you are providing instruction to, and law students who eventually will become a part of the profession, that hopefully the instruction that you are providing will ensure that a certain level of competence is maintained within the profession. So, I think that

is extremely important, to give back and to try and make sure that in giving back, that you are helping lawyers and judges perform at a level that is expected of members of our profession.

I think it is also important, from a personal perspective, in that it keeps you sharp. Because as you have to prepare and as you make your presentations and as you get feedback during the course of the instruction that you are providing, I think it helps keep you sharp on current trends in the law. And maybe things that occur that you are not aware of, that you are apprised of, that you can bone up on, to ensure that you are doing the best quality work that you can do as a judge.

Harold Talisman: I know that one of the places where you went to is Russia.

Judge Walton: Right.

Harold Talisman: You had a teaching experience there. Were you able to learn anything from that experience, as far as Russian law is concerned, in terms of what would be of value to us?

Judge Walton: Well, what I learned, I think, it gave me a better appreciation of the importance of the rule of law and judicial independence, which had not been hallmarks of the Russian system while the Soviet Union was in existence because the judges, the judiciary, were basically puppets of the executive branch. And they basically did what the executive branch wanted, especially in high-profile cases that the Kremlin had an interest in. And, as a result of that, there was a very low esteem that the citizenry had for the judiciary. And when I went over there, there was an effort to

try and address that problem and to try and have the courts become a viable, independent part of the Russian political system. And I was extremely impressed with the individual judges and their desire to try and improve their status in Russia's society. So, I think those were the lessons that I learned and, hopefully I was able to impart something to them that helped them, after I left, move towards establishing the type of judiciary that would have the respect of the citizenry and the support of the Russian people.

Harold Talisman: Was there anything they were doing in terms of the ordinary cases, without getting into the high-profile cases, with respect to ordinary cases that they were doing which would be helpful to us in terms of any ideas they had that you were able to pick up?

Judge Walton: I cannot say that that was the case. I went to Siberia; maybe if I had been in Moscow or St. Petersburg, or one of the larger cities, maybe that would have been the case. But, I mean, there was just a lot that the system lacked and, as a result, for example, the defendant in a criminal case sits in the courtroom in a cage. I mean, how can you have a presumption of innocence under those circumstances. The amount of money that was being allotted to the judicial system was minuscule; the judges were paid very little. Because there had been such a low esteem that the judiciary had in Russia, a large percentage of the Russian judges were female. That is not to say that females should not be judges and are not good judges, but because of the status, at least at that point, of females in Russia as

compared to males, you had a lot of females going into the profession because it was not respected to the extent that, hopefully, it has grown to now. So, I cannot really say that there was a lot. The one thing that did not particularly relate to me, that I saw that I was envious of, was the tremendous desire on the part of the Russian people to be a part of the political process. Including a part of the judicial process. Because Russia was considering moving...[END SIDE A]

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Judge Walton: As I was saying, the thing that I was most impressed about was the tremendous desire on the part of the Russian people to be a part of their political process, including a part of the judicial system. Because Russia was, at that time, considering creating a jury system and they had not had a jury system before that, at least not in the recent past. And, I had a chance to interact with some people in Russian society and they are just clamoring to be a part of the process. And I think it is somewhat depressing when you see in our society our citizens taking for granted our political process. That we have got, you know, very few people who come out and vote. We have a tremendous problem getting jurors to respond to the summonses that we send. I suspect that in Russia, because people had been excluded from the process, who now had an opportunity to be involved in the process, have a lot more involvement than what we have. And I saw, several years ago, where in Moscow they had had the first jury trial and it was good to know that, I guess, some of the efforts

that I had engaged in had ultimately paid off and that they had moved towards a jury system.

Harold Talisman: Going to visiting judgeships, have you ever gone to other circuits and sat as a judge?

Judge Walton: No, I have not. Judges generally do not do that, unless there is some special circumstances, until such time as you take senior status.

Harold Talisman: What is your approach to writing opinions? Where do you begin? Do you have a sort of set method that you use for writing an opinion?

Judge Walton: I do. Contrary to some judges, who will read the pleadings and, in effect, dictate to their law clerks the direction they want to go, I do not do that. I try and hire good people, who are good thinkers, who can independently, at least initially, assess the case along with the interns who work for us. And come up with a draft of how they think the case should be resolved. Once that is done, then they will submit it to me and then I will review the pleadings, I will review the draft and, if I agree with them, obviously I do the edits that I think are appropriate to convert the opinion into my writing style. And if I do not, then I will sit down and I will talk to my clerks and see why they came up with the view that they did. Sometimes they will convince me orally that what they put on paper is the right way to go, but sometimes they do not. And, if they do not, then at that point I will tell them how I think the case should be resolved and send them back to the drawing board. But I think it only enhances my ability to appropriately decide cases if I am giving a certain level of leeway to my clerks, who are

hopefully bright people who work hard and who have a pretty good understanding of the law, as compared to my dictating to them and only, therefore, bringing to bear my intellectual capacity in the assessment of how a case should be resolved.

Harold Talisman: What is your attitude towards sentencing at this point? You have got a lot of experience on this, in both the Superior Court and here. Has it changed over the years and what are your views on it?

Judge Walton: Well, I am known as a tough sentencer. I grew up in a home where there was right and there was wrong, and when you were wrong, you were punished. And I am sure that has an impact on my philosophy about sentencing. That is not to say that I do not believe in compassion. I do realize that people can make mistakes. I do realize that people can be redeemed. And, therefore, while I think every sentence should have a component of punishment to it, that does not necessarily mean that it has to be incarceration, especially for nonviolent offenders who may have just committed one transgression. So, I think it is important that a message be sent not only to the individual, but to society at large, that crime does not pay and if you engage in crime, there is going to be punishment. I do think that judges have to individually look at each case and have to try and make their best call as to whether or not this person poses a potential threat to society. And, if not, the extent to which a sentence that has a punishment component should entail prison, as compared to some other type of alternative.

Have I changed? I would hope I have. For example, when I worked in the White House drug office, I did advocate that there be a disparity between crack-cocaine and powder-cocaine sentencing because of the impact crack was having on the community. I still think there is a justification for some level of disparity, but nowhere near the disparity that we have now, which is 100-to-1. If you are convicted of a crime involving crack you get a sentence one hundred times greater than powder, even though both are cocaine. And I think as a result of that, because crack cocaine has had its most profound impact in minority communities, primarily African-American communities, you see hoards of young African-American men going to prison for substantial periods of time. And because of that, and because of my view that really certainty of punishment in this context, at least for first or maybe second offenders, is more important than severity of punishment, my attitude about the severity of punishment in the context of crack cocaine has been moderated. And I think judges should be willing to moderate their views about any aspect of what they do, including sentencing, when they see that what they had previously believed in may have not been the right way to go.

Harold Talisman: You were a prosecutor for many years and I think one year in the public defender experience. Has that experience as a prosecutor influenced you in any way, in terms of your attitude towards criminals in cases, and so on?

Judge Walton: Well, I would like to feel that both my, actually it was almost two years as a public defender, and my five-and-a-half, almost six years as a prosecutor, I think hopefully both of those have had an influence. I do appreciate the importance of a defendant having adequate and vigorous representation because people are sometimes wrongfully accused. And even if they have not been wrongfully accused, they still are entitled to good representation. And I also appreciate the importance of prosecutors and the role that they play in the system. Obviously victims, whether it be society at large or individuals, are also entitled to justice and I think a prosecutor has an obligation to not only be fair when it comes to prosecuting cases, but also vigorous in the prosecution of cases, because when people do crime, as they say, if they are proven guilty, then I think there should be punishment meted out in reference to that. So, hopefully, having done both prosecution and defense has given me a level of balance about the importance of both roles.

Harold Talisman: What about juries and their role and effectiveness? What is your confidence? What is your view of that over your years of seeing juries?

Judge Walton: You know, the jury system is a marvelous process. There have been several cases where I thought the jury made the wrong decision, but not many. Most often I agree with the jury and even in those situations where I have not agreed with the jury, absent a few situations, I could nonetheless rationalize and understand why the jurors reached the decision that they did.

I think it is a marvelous process where you can take 12 diverse people who have never met each other, put them in a collective situation and, in most situations, the vast majority of situations, they come up with the right result. I think it bodes well for the American public that people are able, under those circumstances, to come together and make appropriate decisions.

I think it does become obviously more difficult because we have had cases, for example, where trials have lasted eight, nine months. It is tough to get jurors who can be here for that period of time and have the capacity to recall all of the information that would have been given to them over that period of time and come up with a fair and just and correct result.

As society has become more complex, as I said before, obviously the law becomes more complex. And when that type of information is imparted to a jury, obviously that is going to complicate the ability of the jury to reach the right decision because of the complexity of the case. But I think our system has served us well.

My major concern about the system is that we have so few people, in the overall context, who respond when we send out notices so that the burden ends up falling on a relatively small number of people. And there are a lot of people, especially in certain parts of our city, whether it be here or someplace else, who do not really participate in the process and I think that is unfortunate.

Harold Talisman: What about in highly technical cases, with the antitrust cases where you get very complicated facts, and so on? Do you think juries are better than having, say, professional people appointed as jurors to decide the facts in the case?

Judge Walton: That is a difficult question because in some ways I would suspect that someone with highly technical knowledge of a particular area of the law might be able to, as a result of that technical knowledge, render a more exact decision in a case than maybe otherwise a jury can. But, the down side of that is that our law is, at least the rule of law is dependent upon the citizenry buying in on the decisions that are made by the court. And I think it is important that there be a significant involvement by the community in that process in order for the process to have credibility. If you had all decisions being made by people like myself, who are appointed by the president, I think over time you would tend to lose the support of the citizenry. But I think when the citizens themselves are making these decisions of significance to the community, then I think there is more of a buy in on society at large. And I think if the rule of law is to prevail, which I think is essential in a democratic society, I think that even with the potential down side of jurors having to decide these very complex issues, I think it balances out in ways in favor of the jury addressing those issues because of the need of the community to buy in on what the court does.

Harold Talisman: My father-in-law was a judge in Germany until Hitler came to power and he told me that in their cases they had six jurors and the judge sat with the jurors deciding the case. What do you think of that approach?

Judge Walton: I think the separation between the role of the judge and the role of the jury is important because if the jurors knew that one of them was a judge, I think the judge would have too much influence. And I think the judge would tend to sway juries to decide a case consistent with the judge's thinking, by and large, and I do not think that would be good.

Harold Talisman: What do you see as the problems facing court today, the administration of justice and, you know, the practice of law? What are the problems that you see being the current problems facing the court?

Judge Walton: Well, I think it harkens back to my concern about justice being equal and that all citizens be in a situation where they have access to the same quality of justice, and I think, unfortunately, as good as our system is, we do not have that. And, to a large degree, that is dictated by how much money you have and I think that is unfortunate. And I think we have to try and make sure that the quality of justice that is meted out by the courts is equalized and that economic status and economic resources do not adversely impact on that. So I think that is a major challenge.

I think the other challenge, as I said before, is that we need good, ethical lawyers who comprise the system and who bring to the system the virtues that I think members of our profession should have. And I often do not see that. I see lawyers who, as I say, will seek to do anything that

they can to try and win because winning becomes the bottom line. And I do not think, in the long term, that serves our society well. So, I think those are the two principal worries.

I think there also is the concern I have about the process, the system itself being adequately funded. Court systems do not fare well many times with legislators in getting the resources that they need, even though we have more and more responsibility thrust upon us. And I think, and I know right now, there is a big debate going on about judicial salaries and I think that is problematic when you have judges who are appointed to the positions that we are appointed to and a year or two out of law school, after clerks leave a judge, they are making more money than the judge. And that is not to say that I think judges should expect to become rich as judges, but if you are going to attract good people to the bench, I think there is a certain level of pay that they have to know they are going to get. And I think, as a result of the low pay that we have now, there are a lot of people who are deterred from seeking judicial positions. And we, in fact, have lost some good people who have been judges, who because of children who are about the age where they are going to go to college and the amount that college costs now, judges, unless they have a spouse like I do who is a doctor making a lot of money, are not able to remain in the position.

I think that is unfortunate. I think we are going to end up with the lack of diversity that I think is important, especially to a court like this. I

think it is important to have people from the private industry, from private practice who are willing to become a part of our profession. I think it is going to become more and more difficult to attract people under those circumstances, if you are not going to provide at least a certain level of pay.

Harold Talisman: What is your concept of the judge's role in society and what is, do you think, society's perception of that role?

Judge Walton: By and large, fortunately, I think judges have a fairly good image in our society. And I think it is important that that be the case because we are making sometimes life-and-death decisions in people's lives. And I think it is important that judges conduct themselves in a way that brings not only respect to themselves, but, more importantly, respect to the role that they have in our society. I think people look to judges to decide cases in a fair and just way and because of the importance of the judiciary, because if we did not have it, I mean people are going to get their pound of flesh in someway. And if they were not able to come to the civil setting of a courtroom and get justice, then they are going to get it in someway that would lead us towards anarchy. So I think it is important that judges conduct themselves in a way that engenders respect by the citizenry, so that people have faith in our system. Because without the rule of law, we will not have the type of democratic society that was envisioned by our forefathers, which has served us very well in this country.

Harold Talisman: What about the influence of the court's decisions on public policy, what do you see?

Judge Walton: Well, I think it is important. I mean, I think if you just look back at the role that the court played as it related to equalizing the rights of African Americans in our society; I think the courts were in the forefront and took the initiative when the other two branches of government really did not, and set us on a course that had to occur in order for us to gain the status that we have in the world community. Because there is no way we could have that status if we still were operating under the Jim Crow laws that used to be in place and the discrimination that existed in our society. So I think courts should not have to be in the position where they set a trend of what policy should be, but I think the reality is that when inequity exists in our system and it is left to judges to have to decide those issues, I think judges have to be willing to step in and do that. Although I do believe in judicial restraint, and I do believe that judges should not make law, the reality is that many times things that we do have a profound impact on social policy.

Harold Talisman: What has been your evolution of your political philosophy over the years? How has it evolved?

Judge Walton: Well, again, I think the area in which I grew up, which is fairly conservative, and the family in which I grew up, which had basically conservative values, had an impact on how I think. Even though my parents were Democrats, they were very conservative people. And I think

they imparted those views to me. I do believe the government has a role to play in providing equality to all of its citizens, but I also think that there is a limited role the government has. I do not think that has really changed. Politically, I mean, I sort of am out of the mainstream of politics now, as a result of what I do, so I do not really get involved in politics. Obviously I have views about politics, but I try and not let those views impact on how I decide cases.

Harold Talisman: I think we might have hit on this earlier, noting your teaching experience. And I notice I think we have already covered that. I do not think we need to go through that. One of things that I noticed is that you have had, you have been the chairman of the, what, National...

Judge Walton: Prison Rape Elimination Commission.

Harold Talisman: Discuss that whole bit and tell us what that is like.

Judge Walton: That is still an ongoing process. It was supposed to only be a two-year assignment, but for reasons that I do not need to discuss, the tenure has gone beyond the two-year period. It has been very important and has been enlightening. I have traveled throughout the country conducting hearings. Last week, when I was in Louisiana, I visited the Angola State Prison in Louisiana, which used to be the most violent prison in America. They have made dramatic changes and it is a very different environment now. But I have had the chance to go in many correctional facilities as a result of this. We have held hearings, we have heard from people who have been victimized by prison rape while they were incarcerated and it is an

important effort. I hope what we recommend to the president, the attorney general and the Congress will ultimately have an impact, because the reality is that most people that we lock up will come back into society and if, while they were incarcerated, they were brutalized in the way that we are examining in the Commission, I think it only makes them more of a threat to society and makes it more likely that they are not going to be able to re-enter society with an attitude that is going to keep them out of trouble. So, it is a very important effort and I hope we can make a difference.

Harold Talisman: Well, I am getting near the end here and I wanted to ask you about your family. I know you have told me that your wife is a doctor, you have a daughter who is...[End Tape 3]

Harold Talisman: Judge Walton, we are getting near the end of this interview and this is now tape number four and I hope maybe we will conclude with this. I would like to discuss your family. I know you have told me your wife is a doctor. How long has she been a doctor?

Judge Walton: My wife has been a doctor now, she would have probably graduated in 1991 or 1992.

Harold Talisman: Does she specialize in anything?

Judge Walton: She is a dermatologist.

Harold Talisman: A dermatologist. And when and how did you meet her?

Judge Walton: I met my wife when she was on jury service in the Superior Court. Not on my jury, but she happened to be at the courthouse on jury service and she

was sitting with a friend of hers, who happened to have previously been my mechanic. I used to drive a Corvette. He worked at a Chevrolet dealership and he had worked on my car and, in fact, was still working on my car part-time. He had left the dealership and became a police officer and he was down here on a case. And he and my wife had gone to high school together and they were sitting there talking and I stopped to say hello to him and she was the one who took an interest. She gave him her phone number and at that point I was actually dating someone else and when that broke up I gave her a call. And we dated for a little less than two years and then we were married.

Harold Talisman: And your daughter is how old?

Judge Walton: She is sixteen.

Harold Talisman: Sixteen. So, she will shortly be going to college.

Judge Walton: Yes, she has two more years of high school, she is in the tenth grade now, so she has two more years. Next year we will have to start making the rounds and looking at colleges.

Harold Talisman: Does she have any particular interest that you can see at this point?

Judge Walton: Probably the arts. I think she wants to be a fashion designer. Hopefully, she will do something that will give her a more concrete grounding. But that is what she says she wants to do.

Harold Talisman: Your mother and father raised three children. All three graduated from college, took up professions. You told me your brother and sister are teachers. To what do you attribute this? I mean, your mother and father

were not college graduates and they had a tough, you know, time raising their kids, I am sure, in Donora. To what do you attribute the fact that all three kids ended up going to college and having successful careers?

Judge Walton:

Well, we were blessed. We were very fortunate to have the parents that we had because there were a lot of young people who grew up in my community who had just as much on the ball as we had, and I do not doubt could have done all of the things that we have been able to do. The lacking ingredient that they had were my mother and father. My parents centered their entire life around their children and they made many sacrifices under difficult circumstances economically to make sure that we had opportunities to do things that otherwise would not have been available if we did not have the type of parents that we had. I am sure they went without a lot to give us what we have been able to acquire.

They always let it be known that they expected us to get a higher education, so, I mean, that was one of the first ingredients. They always let it be known that we had the capacity to do whatever we wanted to do, if we set our mind on it. They also instilled in us a very strong work ethic, even when the steel mills went out of business and there was no work available for my father to do, he did not just sit at home. He had to work on the dump truck for the city in order to get, they did not have the welfare payments that they have now, but we used to get what was called surplus food. And, in order to get the surplus food, he had to work on the truck. He also had a plot of land that somebody let him use out in the

country, outside of Donora, that he farmed. So, he raised crops and they were frozen and we ate them during the winter. I mean, he was just a hard-working person.

My mother, even though she was a housewife, eventually she did get a job. But at the time we were young, the only job available for a black woman in our town was doing housecleaning, because she could not even get a job at the five-and-ten-cent store because they would not hire blacks. And even though those deprivations existed in her life, my mother was an honor student in high school and regretted that she had never been able to go to college. My father provided one aspect of what we needed as children, my mother provided, I think, that incentive for us to go to college because it was something that she always preached to us. And we were just blessed to have the parents that we had because there is no question that without them, none of us would have been able to do the things that we have done.

Harold Talisman: Now, you briefly mentioned to me initially that you lived in an apartment house owned by your grandmother, I believe it was. What kind of an influence did she have on your early life?

Judge Walton: Well, my grandmother was an interesting person. She and my grandfather had initially operated what I understand was the biggest speakeasy in western Pennsylvania, at that location. It was a large tenement that had a huge room or hall above us, which used to be a dance hall. There was another large room which was a pool room and they had a huge kitchen

where they would cook food. And then they had on the third floor actually a number of rooms, so it was like a hotel. And the liquor was made in the basement.

When they eventually got out of that, my grandmother became extremely religious. She joined a holiness church with a minister from South Carolina and that hall, that used to be the dance hall, became a church. And so everyday, because they had church everyday, we went to church. Either because we were actually in the church itself or we were right below it and you could not escape it because the members were extremely vocal. But, my grandmother, she was a very tough cookie; she had to be. And I think a lot of the toughness she had was something she imparted to us. She would preach to us, you know, right and wrong and she provided good role modeling, as my parents did.

I think my grandparents on my father's side, however, I think had a greater influence. They, again, were just extremely solid individuals; one had a third-grade education, one had a fourth-grade education. But they were self-taught, they both read well. Their children all had at least high school educations and one, two actually, graduated from college, which at that time was also unique. So my father, obviously, he did not go to college but what was instilled in him by his parents are the same things that he instilled in us. And I spent a lot of time with my grandparents on my father's side, as did my brother and sister, and they played a

significant role, even to a greater extent than what my mother's mother did.

Harold Talisman: You told me that your dad had some artistic ability. Did he ever get a chance to use that?

Judge Walton: Not really, except for things that he would do for the church. He would do drawings and things of that nature, but, no, he really did not have that opportunity. He went off to war after college, he joined the Navy, high school I mean, he joined the Navy. And, he used to talk about how, you know, he joined the Navy because he really wanted to fight for this country, but he was not permitted to. He had to do support-type things for the Navy, but he was not permitted to actually engage in fighting activity because he was black.

But, you know, my parents were amazing people, despite the deprivations that they experienced because of being African American, they never, ever harbored and never imparted to us any sense of anger or hostility. My mother and father had very good friends who were white. And they never did anything that made us harbor such anger, and I think that was a key that helped us, because I have seen a lot of blacks who have such anger and sense of hatred because of what may have happened to them or happened to their forebearers, that that anger and that hatred impedes their ability to achieve the success that otherwise they could. And I think my mother and father understood that. That despite what they had experienced and despite how, maybe, personally resentful they may

have been about that, they did not want to do anything that would cause their children to harbor those types of feelings that would, I think they understood, impede our ability to otherwise be successful in life. So, like I said, I just had great parents and I miss them tremendously.

I had the opportunity, once I started to make a decent salary, to take them on vacation with me for a number of years in the Caribbean. Before that I think they had been to Canada once or twice on bus trips, but they had never been on an airplane and otherwise had never been outside of the country. And, so, for about eight to ten years, every Thanksgiving, I would, along with my family, take them to a Caribbean island and I think it was something that they really enjoyed. And it was something I was able to give back to them based upon what they had done for me.

Harold Talisman: Well, thank you very much for this interview and it has been very enlightening.