

E. BARRETT PRETTYMAN, JR.

Born: June 1, 1925, Washington D. C.

Secondary Education: St. Albans School, Washington, D. C. (graduated 1943)

1943 - 1945: 84th Division, 9th Army (combat in Germany)

1945 - 1949: Yale University (B.A., 1949)

1949 - 1950: Reporter on the Providence Journal (Rhode Island)

1950 - 1953: University of Virginia Law School (LL.B., 1953). Decisions Editor, Virginia Law Review; Winner of the 1953 Moot Court competition; Winner of the prize for best Note in Volume 38, Virginia Law Review.

1953 - 1955: Law Clerk, successively, to Hon. Robert H. Jackson, Hon. Felix Frankfurter and Hon. John M. Harlan, Justices of the Supreme Court of the United States

1955: Co-editor of Mr. Justice Jackson's post-humous volume, "The Supreme Court in the American System of Government".

1955 - 1963: Associate, law firm of Hogan & Hartson, Washington, D. C.

December 1962 - April 1963: In charge of transportation for the exchange of \$53 million worth of goods for 1,113 Bay of Pigs prisoners, including negotiations with Castro in Cuba.

April 1963 - July 1963: Special Assistant to the Attorney General of the United States.

July 1963 - April 1964: Special Assistant to the White House and the President's representative on the Interagency Committee on Transport Mergers.

July 1, 1964 - Present: Partner, Hogan & Hartson

Special Counsel to Committee on Standards of Official Conduct of the United States House of Representatives ("Ethics Committee") in connection with the so-called "ABSCAM" investigation, February 1980 to July 1981.

Outside Counsel to Subcommittee on Oversight and Investigations of the House Committee on Interstate and Foreign Commerce, in United States v. AT&T (1978).

Special Consultant to Subcommittee to Investigate Problems Connected with Refugees and Escapees, of the Senate Judiciary Committee, on fact-finding trip to Vietnam, December 1967 - January 1968 (five weeks in Vietnam).

OTHER PROFESSIONAL ACTIVITIES:

Present

- Fellow, American College of Trial Lawyers
- Member, former President, American Academy of Appellate Lawyers
- Life Member, American Bar Foundation
- Vice President, Member of Executive Committee, Trustee, and Chairman of Publications Committee, Supreme Court Historical Society
- Member, Judicial Conference of the District of Columbia Circuit (since 1958)
- Member, CPR - selected panel of ADR neutrals for Washington, D.C.
- Trustee emeritus, American University, Washington, D. C.
- Member, Metropolitan Washington Board of Trade
- Member, Judicial Evaluation Committee, D.C. Bar
- Member, Advisory Board of the Media Law Reporter, published by BNA

Member of Board, former President, PEN/Faulkner Foundation

Member, International Visiting Committee, Muhlenberg College

Member, Board of Governors, and former President, the Lawyers Club of Washington

Commissioner (appointed by the Chief Justice),
Judicial Fellows Commission

Member, District of Columbia and Supreme Court
Bars. Also admitted to practice in the United
States Courts of Appeal for the 2nd, 3rd, 4th,
5th, 6th, 7th, 8th, 9th, 11th and District of
Columbia Circuits.

Who's Who in America, Who's Who in American Law,
Best Lawyers in America

Faculty Member (for five years), Appellate Practice
Institute, sponsored by the ABA Appellate Judges
Conference

Member, Board of Directors of the Historical Society
for the District of Columbia Circuit

Member, The Alfalfa Club, The Barristers,
Chevy Chase Club, Metropolitan Club

Past:

First President, District of Columbia
(Unified) Bar (1972-73)

President, Vice President and Treasurer, The
District of Columbia Bar Foundation

Member, Board of Governors, District of
Columbia Bar (1973-74)

Member, Special Committee on Amicus Curiae
Briefs of the American Bar Association

Member, Board of Directors, District of
Columbia Bar Association (voluntary)

Member, International Advisory Group, Toshiba Corporation

Consultant, "Separate But Equal," TV movie produced
and directed by George Stevens, 1992

District of Columbia Delegate to the
American Bar Association

Member, National Campaign Committee, Graduate Program for Judges, University of Virginia School of Law

Chairman, appointed by the United States Court of Appeals for the District of Columbia Circuit, to write the Bicentennial history of that Court (1976)

Member, Court of Appeals Subcommittee, Court System Standing Committee of the D.C. Bar, see Report, S. Prt. 98-34, 98th Cong., 1st Sess. (April 1983)

Member, Long Range Planning Committee, District of Columbia Bar

Member, Executive Committee and Board of Trustees; Chairman, Committee on Educational Policy; Chairman Ad Hoc Compensation
Chairman, Committee on Finance and
Member, Gift Review Committee of American University, Washington, D. C.

Member, National Advisory Committee, National Institute for Citizen Education in the Law

Member, Board of Governors, St. Albans School, Washington, D. C. (1957-63, 1965-71), Chairman (1965-67)

Vice-President, Member of Executive Committee, Board of Trustees, American Judicature Society

Member, Advisory Board, Institute for Communications Law Studies, Columbus School of Law, Catholic University

Member, Board of Trustees, Georgetown University's Institute for Public Interest Representation

Member, Board of Trustees, Center for Law and Social Policy

Member, Washington Institute of Foreign Affairs

Corporate member, Children's Hospital of the District of Columbia

Member, Advisory Board, the Salvation Army

Member, Editorial Advisory Board,
Shepard's, Inc.

Member, Board of Directors, National
Council on Crime and Delinquency

President, The Washington Children's
Fund, Inc.

Executive Vice President, District
Association of Approved Youth Clubs

Member, Board of Directors, Channel 26
(WETA) (educational television),
Washington, D. C.

Member, Board of Chevy Chase Methodist
Church

Member, Board of House of Mercy

Secretary, The Barristers

Member, Executive Committee and of Board of
Trustees, The Washington Journalism Center

AUTHOR OF:

"DEATH AND THE SUPREME COURT" (Harcourt, Brace & World 1961). Winner of the Mystery Writers of America Award for the best fact crime book of the year. Winner of the Scribes Award for the book best expressing to the lay reader the aims and purposes of the legal profession. One chapter reprinted in "The Third Branch of Government – Eight Cases in Constitutional Politics" (1963); a second chapter televised on "The Bob Hope Chrysler Theatre" (1964). Portions of book quoted in Bellow and Moulton, The Lawyering Process: Materials for Clinical Instruction in Advocacy (The Foundation Press 1978 at 286-292).

"PETITIONING THE UNITED STATES SUPREME COURT – A PRIMER FOR HOPEFUL NEOPHYTES", 51 Va.L.Rev. 582 (1965) (referenced in Stern & Gressman, Supreme Court Practice (6th ed. 1986) at 358 n.69, and in Wright, Law of the Federal Courts (1976) at 551 n.23).

"WISER IN HIS OWN CONCEIT", 51 ABA Journal 450 (1965).

"THE CHIEF JUSTICE SHOULD ADDRESS CONGRESS", 56 ABA Journal 441 (1970).

"THE INDETERMINATE SENTENCE AND THE RIGHT TO TREATMENT", 11 Amer. Crim. L. Rev. 7 (1972). Reprinted in "Justice As Fairness" (ed. by Fogel & Hudson, Anderson Pub. Co. 1981).

"OPPOSING CERTIORARI IN THE UNITED STATES SUPREME COURT", 61 Va.L.Rev. 197 (1975) (referenced in Stern & Gressman, supra, at 388 n.112, and in Wright, supra, at 551 n.23).

"THE UNCONSTITUTIONAL CONVICTION OF 'BABY'", Yearbook 1978 of the Supreme Court Historical Society at 68.

"SUPREME COURT ADVOCACY: RANDOM THOUGHTS IN A DAY OF TIME RESTRICTIONS", 4 *Litigation Magazine* (no. 2, 1978) 16 (referenced in Stern & Gressman, *supra*, at 577 n.1, 596 n.29, 598 n.34, and throughout Stern, *Appellate Practice in the United States* (BNA 1981), and reprinted in *The Litigation Manual* (Sect. of Litig., ABA 1983, at 224).

"BUILDING WALLS WITH GANNETT", October/November 1979 *District Lawyer*, Vol. 4, No. 2, p. 36.

"THE SUPREME COURTS USE OF HYPOTHETICAL QUESTIONS AT ORAL ARGUMENT", Spring 1984, *Catholic University Law Review* Vol. 33, No. 3.

"PUNITIVE DAMAGES", A Plan to Improve America's System of Civil Justice from the President's Council on Competitiveness (National Legal Center for the Public Interest, November 1992, at 75).

"ROBERT H. JACKSON: 'SOLICITOR GENERAL FOR LIFE'", Yearbook 1992 of the Supreme Court Historical Society at 75.

"CAVEAT PUBLISHER: THE TORT OF DANGEROUS ADS", *Legal Times* (March 1, 1993, at 30).

"DIFFERENCES OF OPINION", *The American Lawyer* May 1995

"NEBRASKA PRESS ASSOCIATION v. STUART. HAVE WE SEEN THE LAST OF PRIOR RESTRAINTS ON THE REPORTING OF JUDICIAL PROCEEDINGS?" *St. Louis Univ. Law Rev.*, Vol. 20, No. 4, 1976, p. 654.

"PUNITIVE DAMAGES," in A Plan to Improve America's System of Civil Justice, from the President's Council on Competitiveness, 1992, p. 75.

Author or co-author with Allen Snyder of the following articles in the Legal Times of Washington:

"Breaching Secrecy at The Supreme Court -- An Institutional or Individual Decision?" (June 12, 1978, p. 6).

"Are Specific Guidelines Needed to Protect Justices' Confidentiality at Supreme Court?" (June 19, 1978, p. 24).

"Perishing Oral Arguments -- Would Q & A Be Better?" (July 31, 1978, p. 12).

"Short Oral Arguments Problem: A Possible Solution from Germany." (Aug. 21, 1978, p. 10).

"Unpublished Opinions Raise Questions." (Sept. 18, 1978, p. 11).

"Federal Bar Admissions Tangle Raises Questions" (Feb. 5, 1979, p. 11).

"'Herbert' Heightens Libel, Discovery Dangers" (May 7, 1979, p. 34).

Co-Author with Elliot M. Minberg:

"Corporate Speech: Extending the Evolving Doctrine" (Aug. 11, 1980, Legal Times of Washington, p. 10).

Co-Author with James G. Middlebrooks:

"Court Grants New Power to Limit Adult Theaters" (Mar. 17, 1986, Legal Times of Washington, p. 8).

Co-Author with George W. Mayo, Jr.:

"New Route Entry Provisions of the 1982 Bus Act Given First Appellate Consideration in Recent D.C. Circuit Decision" (Transportation Law Journal, Vol. 53, No. 2, Winter 1986).

Co-Author with Lisa A. Hook:

"The Control of Media-Related Imitative Violence" (Federal Communications Law Journal, Vol. 38, No. 3, January 1987).

Co-Author with John G. Roberts, Jr.:

"New Rules and Old Pose Stumbling Blocks In High Court Cases" (Feb. 26, 1990, Legal Times of Washington, p. 22)

OBI TUARES

E. BARRETT PRETTYMAN JR., 91

D.C. lawyer played a role in many celebrated cases

BY MATT SCHUDEL

E. Barrett Prettyman Jr., a Washington lawyer who had an advisory role in the Supreme Court's landmark 1954 decision in *Brown v. Board of Education*, which outlawed segregated schools, and who decades later investigated congressional corruption in the Abscam case, died Nov. 4 at a hospital in the District. He was 91.

The cause was a respiratory ailment, said his son, E. Barrett Prettyman III.

Mr. Prettyman, whose father was a prominent D.C. jurist, was a law clerk to three Supreme Court justices in the 1950s, an assistant to Attorney General Robert F. Kennedy and, in later years, a mentor to current U.S. Chief Justice John G. Roberts Jr.

In 1962, Mr. Prettyman negotiated with Cuban leader Fidel Castro for the release of prisoners taken in the ill-fated Bay of Pigs operation, and his clients later included General Motors, acclaimed writers such as Truman Capote and former Beatle John Lennon.

Mr. Prettyman's contribution to the Supreme Court's 1954 *Brown v. Board* decision was unknown until author Richard Kluger described it in his 1976 book about the case, "Simple Justice."

At the time, Mr. Prettyman was a clerk to Justice Robert H. Jackson, who had drafted a separate opinion in support of the court's unanimous decision regarding segregated schools. After reading Jackson's concurring opinion, Mr. Prettyman realized that it could be seen as, at best, a lukewarm endorsement of the full court's ruling.



JUANA ARIAS/THE WASHINGTON POST

Mr. Prettyman, shown in 1999, was a clerk to three Supreme Court justices in the 1950s.

could use his office," Mr. Prettyman told the House committee, adding that Myers made "a mockery of the seat in which his constituents placed him."

Myers was the first member of Congress to be expelled since the Civil War.

Elijah Barrett Prettyman Jr. was born June 1, 1925, in Washington. His father was a chief judge of the U.S. Court of Appeals for the D.C. Circuit. The U.S. Courthouse in the District is named in his honor.

After graduating in 1943 from the private St. Albans School in Washington, the younger Barrett Prettyman served in the Army in Europe during World War II. He graduated from Yale University in 1949.

He composed a sharply worded memorandum in which he urged Jackson not to publish his separate opinion.

"I told him quite candidly," he said in a 1996 interview with the Historical Society of the D.C. Circuit Court, "that I didn't think much of the opinion, that it sounded more like a dissent than a concurring opinion."

He argued that Jackson's separate opinion would only undercut the force of the court's unified ruling. Jackson ultimately agreed, and the opinion was never published.

"It is doubtful," Kluger wrote in "Simple Justice," "if any of the many excellent young men who have come fresh out of the law schools . . . to serve the justices of the Supreme Court ever served more faithfully or usefully than Barrett Prettyman served Robert Jackson."

Jackson died soon after the Brown decision, and Mr. Prettyman continued at the Supreme Court as a clerk to Felix Frankfurter and later to John M. Harlan. He is believed to have been the only person to serve as a law clerk to three justices in succession.

In 1955, Mr. Prettyman joined the Washington law firm of Hogan & Hartson (now Hogan Lovells), where he took on First Amendment and death-penalty cases and established the firm's appellate practice. He argued before the Supreme Court 19 times. Among the dozens of lawyers he mentored at Hogan Lovells was Roberts, who was named chief justice in 2005.

In 1961, Mr. Prettyman published "Death and the Supreme Court," a nonfiction study of legal cases involving the death penalty. It won the Edgar Allan Poe Award for best factual crime book. He later accompanied one of his clients, Capote, across the country for a series of interviews with death-row inmates.

In the early 1980s, Mr. Prettyman was special counsel to the House Ethics Committee during the Abscam investigation, in which several members of Congress were convicted of accepting bribes from a would-be Arab sheik in an undercover FBI sting.

Mr. Prettyman recommended that Michael Myers (D-Pa.) be expelled from the House of Representatives after he was caught taking \$50,000 in cash.

"He used his influence as bait and barter to wring huge sums of money from those he thought

He spent two years as a newspaper reporter in Providence, R.I., before attending law school at the University of Virginia, where he became friends with a fellow student, Robert F. Kennedy. He received his law degree in 1953.

In 1998 and 1999, Mr. Prettyman worked pro bono as inspector general of the District of Columbia, rooting out corruption in city agencies.

"It's the best job I ever had," he said at the time. "Every time you think you've seen every scam and scoundrel that could possibly come down the pike, you're surprised by a new one."

His marriages to Evelyn Savage and Victoria Keesecker ended in divorce. His third wife, Noreen McGuire, died in 2011. Survivors include two children from his first marriage, E. Barrett "Ty" Prettyman III of Oakton, Va., and Jill Prettyman Lukoschek of Houston; and three grandsons.

Mr. Prettyman was a collector of rare books and served as president of the PEN/Faulkner Foundation, which presents awards to writers, from 1990 to 1993. He had a wall of photographs taken with many illustrious figures, including one with Castro.

In 1961, more than 1,000 Cuban exiles were taken prisoner after they attempted to invade their homeland with U.S. help. The next year, the administration of President John F. Kennedy asked Mr. Prettyman to arrange the release of the prisoners in exchange for more than \$50 million in food and medical supplies.

During negotiations with Castro, Mr. Prettyman asked to see novelist Ernest Hemingway's former home in Havana. Castro gave him a private tour.

Afterward, Castro agreed to allow many of the prisoners' family members to leave as well. Mr. Prettyman joined many of them on their flight out of Cuba.

"As soon as those wheels were up," he told *The Washington Post* in 2000, "they went berserk. Yelling, crying, singing. It was very, very emotional. Best Christmas Eve I ever had."

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