

Oral History of Robert P. Watkins
Fourth Interview
June 19, 2019

This interview is being conducted on behalf of the Oral History Project of The Historical Society of the District of Columbia Circuit. The interviewer is James McKeown, and the interviewee is Robert Patterson Watkins III. The interview took place at the law offices of Williams & Connolly on Wednesday, June 19, 2019. This is the fourth interview.

MR. McKEOWN: Good afternoon, Mr. Watkins.

MR. WATKINS: Good afternoon.

MR. McKEOWN: When we left off the last time, you were recalling your days at Cambridge and the work that you did there. I didn't know if there was anything, in the ensuing weeks since we met in May, that came back to you about Cambridge or you wanted to share with us on the record at this point?

MR. WATKINS: I don't think so.

MR. McKEOWN: So when you came back from Cambridge, you came back to the U.S. Attorney's Office. Is that correct?

MR. WATKINS: Yes. When I was nearing the end of my academic work in Cambridge, I wrote to the then-U.S. Attorney, Thomas Flannery, saying that I was returning to Washington in June and I'd like to see him because I wanted to resume my work at the U.S. Attorney's Office. He interviewed me and offered me the position. I was sworn in July of 1969. So I was an Assistant U.S. Attorney again.

I was assigned to the General Sessions Court, which at the time, had jurisdiction over all non-felony crimes in the District of Columbia (DC). Then, all felonies were tried in the U.S. District Court. The court is now called Superior Court. At that time, the General Sessions Court tried

everything that was not a federal matter. They tried the minor federal crimes, simple assault, shoplifting, liquor violations, and things of that nature.

MR. McKEOWN: This is on the criminal side of court?

MR. WATKINS: Yes. The civil side of General Sessions was not terribly active. It didn't have lots of cases because you could get to the jurisdiction very easily if you had a civil case and you wanted it tried in the federal court. If a lot of the big cases would be tried in a state court, civil cases would be tried in the federal court. The federal court had most of the heavy litigation. In 1972, the Congress passed a bill that made General Sessions a part of the regular state court system. Everything was tried in trial court. It didn't have an intermediate court, a Court of Appeals. It heard the civil and criminal matters that were tried in the Superior Court, and the Superior Court had jurisdiction. That was very broad. All the big cases that only involved the DC entities or persons were now tried in the General Sessions Court.

I was one of the first Assistants to be transferred to what became the Superior Court, and I tried criminal cases mostly. Then they asked me to be the supervisor of the Superior Court; I guess it was the Misdemeanors Section, but it was more than Misdemeanors. It was some of the heavy crimes as well. So I was not happy about that because I wasn't trying cases, but I was making sure that the cases got tried and everything ran on time and so forth. So that's what I was doing.

MR. McKEOWN: When you came back from Cambridge, do I recall correctly that you met your wife, or your future wife, at Cambridge?

MR. WATKINS: No. I got married in 1969 while I was still in the U.S. Attorney's Office. We went to Cambridge in the fall of 1969, and I came back to the U.S. Attorney's Office in 1970. So I'm back in the U.S. Attorney's Office after a little bit of time, I was trying misdemeanor cases and other kinds of less important cases, but, not many felonies. Then I was trying felonies as well. Then, they asked me after a very short time, to head the General Sessions section of the Misdemeanor Trial Section. So I became an administrator to make sure that things went well.

MR. McKEOWN: When you came back after Cambridge, what trial experience had you had before then?

MR. WATKINS: I tried one or two cases in General Sessions, but I hadn't had a lot of practice. My practice was when I was in the U.S. Attorney's Office when I first came to the Appellate Section. I wrote briefs and argued cases in the Court of Appeals, and that was where a lot of my time spent in the U.S. Attorney's Office in what some people called, "Big Court."

MR. McKEOWN: This was all pre-Cambridge, right?

MR. WATKINS: Yes. That was pre-Cambridge.

MR. McKEOWN: What kinds of cases were you arguing? I assume this was to the U.S. Court of Appeals for the District of Columbia (D.C.)?

MR. WATKINS: Right. They were generally criminal cases. I had one or two civil cases, and that was because the Civil Division of the U.S. Attorney's Office that

was federal had people who took cases from the trial court to the Appellate Court; they argued their own appeals in the criminal cases. After a case was tried and if it was appealed, it was sent to the Appellate section where I wrote briefs and argued cases in the Court of Appeals.

MR. McKEOWN: During that appellate portion of your career, were there any cases that really stood out as being important or big, or I guess maybe they were all big to you at that time?

MR. WATKINS: They were all big to me at that time, but, there was one case that I had that involved a man who was convicted of, I'm not sure it was murder, but it was a pretty serious crime and his attorney filed a motion with the District Court to have his sentence reduced. He had been a model prisoner, and the District Court said no. It went to the Court of Appeals, and the Court of Appeals listened to his plea. I didn't think it was great, given what he had done, but he had people from the jail and people from his community that said this guy has been rehabilitated; I was defending the government saying he should stay in jail. The Court of Appeals overturned the case. I was crushed because it was my case; I wanted to succeed in it. That's what the Court of Appeals does.

MR. McKEOWN: Was your immediate supervisor at that time in the Appellate Section Thomas Flannery?

MR. WATKINS: No. At the time I was in the Appellate Section, Dave Bres was the U.S. Attorney. He hired me originally. I think the administration changed,

afterwards, so, Flannery became the U.S. Attorney. He was U.S. Attorney when I left to go to Cambridge, and when I came back, he re-hired me.

MR. McKEOWN: How many other attorneys were working in that section when you were there, pre-Cambridge? Do you recall?

MR. WATKINS: There must have been twenty. That's only a guess because I didn't have a handle on the administrative things that were going on at the time.

MR. McKEOWN: Were the cases pretty much you handled from the beginning to end by yourself or was there a team of attorneys that you'd work with?

MR. WATKINS: If somebody was new in the Appellate Section, they would be handed a record and said this is the appeal and this is the appellate claims being made, you write it. So I'd write a brief, and somebody would review it and say what about this or what about this, so you'd rewrite it and then you'd argue it. And that's how it worked. When you up for your first couple of arguments, some of the lawyers in the office would conduct a moot court which would be set up just like a court; they'd ask questions and you had to answer them.

MR. McKEOWN: Was there anything during that time when you were first getting into this process that stands out as a harsh or wish you hadn't gone through this or I wish I had done this differently?

MR. WATKINS: It's interesting, during my time in the U.S. Attorney's Office, people came to get trial experience; it was hard to get trial experience in firms or agencies, so the U.S. Attorney's Office was a desirable place. As a matter of fact, they had a requirement that when you came when I was there, you

had to commit to staying for three years. If you didn't stay for three years, and if you were going to someplace else, the U.S. Attorney would not give you a good recommendation. That's what I was told; I don't really know if things happened that way or not.

MR. McKEOWN: Any personalities that stand out in your mind from that period of time or do you have any stories you'd like to share?

MR. WATKINS: Not really. Frank Nebeker was the head of the Appellate Section, and he was a very clever and good lawyer. He would review your briefs and point out weaknesses or strengths; he was a good supervisor. There were other people in the office that are lawyers now who were my contemporaries, who have retired or near retirement. We enjoyed each other's company. We all got married around the same time. Our group had great camaraderie.

MR. McKEOWN: What I'm hearing, though, is that the daily working relationship was more of a vertical one. You worked on your own and reported up?

MR. WATKINS: Right.

MR. McKEOWN: Wasn't there much collaboration with your contemporaries at that point?

MR. WATKINS: If I had an issue that I knew somebody else had worked on, I would go and ask them, but if I was given a brief, I didn't collaborate with anyone. I sat down and worked on it myself. That's what everybody else did unless it was an unusual case where people wanted some help; they'd run the drafts by other people in the office who'd say what do you

thought, and give you their opinions. You'd go back and rewrite the brief or not rewrite it and file the brief. That's the way it went.

One of the things that was interesting there were times when the Court of Appeals ruled against us, and, in a couple of cases that I was involved in, the issue was whether we should ask for a rehearing or ask to go beyond that. It was difficult to get something through the Supreme Court because we knew they weren't taking many deals for criminal cases in the District of Columbia. You had to get permission from one of the Assistant Attorney Generals if you wanted to proceed with a rehearing or file a cert petition. I had one or two that I thought about rehearing or filing a cert petition. The fellow who was the second in command in the Appellate Section said, "The Assistant Attorney Generals won't approve your request, so, you moved on.

MR. McKEOWN: Lots of lawyers had those moments, but when you were arguing before the panels, were there any moments you wished you could relive where you might have had something like brain freeze.

MR. WATKINS: Leventhal was the judge on the Court of Appeals, and in the office, you would prepare for what you thought were the sort of questions they'd ask you, but, Leventhal was always able to ask a question that nobody thought would be asked, or nobody had reviewed the problem in a way that the judge had. There were two cases I argued in front of him. Fortunately, they were slam-dunks for me; he didn't ask me any questions that I hadn't thought about or hadn't prepared an answer for. I learned that when you

go to the Court of Appeals, you had to know the judges and read their opinions from the past to get a feel for what they were going to do. There were times when some cases were noteworthy. People in the Appellate Section would go to listen to the arguments in the Court of Appeals and watch how the judges performed.

MR. McKEOWN: When you came back after Cambridge, was it your preference to go into trial work as opposed to the appellate work, or was that a choice made for you?

MR. WATKINS: I think I may have misled you. I was doing appellate work before I went to Cambridge. I came back, and I didn't do much appellate work at that point. I went to General Sessions until it became the Superior Court and until I became the supervisor for the Misdemeanor Section of Superior Court.

MR. McKEOWN: Your role pre-Cambridge at Justice was in the Appellate Section.

MR. WATKINS: Exactly.

MR. McKEOWN: And when you came back, you did very little of that. You did trial work?

MR. WATKINS: What happened was that assistants were almost always put in the General Sessions Trial Division, and they would give you a file and say, go up and try this case--a marijuana case, a shoplifting case, assault on a police officer, things like that, and you get a lot of trial work. I came into the office at a time when they were short on Appellate lawyers, so instead of going to the trial division, I went to the Appellate Division. So when I came back, I wanted to go to the trial division because I wanted to be able

to stand up in court and do that. It was amazing how much you learn when you actually have to stand up and cross-examine a witness who doesn't give you the answers that you want and you have to get information out of the witness for that particular situation. So that's what I wanted to do. After the change in jurisdiction, the Superior Court had jurisdiction over Felonies as well as Misdemeanors, and so I figured I'd do my time in the Misdemeanors Section and I'd go try some Felonies, which were big bank robberies, murders, and those kinds of things. That's what you wanted to get out of the U.S. Attorney's Office; you want to get trial experience.

MR. McKEOWN: At what point in your training, or your life, did all of a sudden, and I'm going to use the word epiphany, this longing for trial work become important to you?

MR. WATKINS: I told you about Mississippi.

MR. McKEOWN: Yes, you did. I believe when you told us about your Mississippi experience, you were involved in going to court, not as a lawyer, but you were accompanied.

MR. WATKINS: During that time, I met lawyers in the trial division of the Civil Rights Division at the Justice Department, and they were people who tried cases. They told me I ought to come down and work in their office.

I went there and conducted many investigations, but I was the second or third chair at trials. When matters went to court, I was not standing up and naming witnesses. I did not argue motions. It became

clear to me that I'd have to spend five years before I'd get a case that I would try on my own. So I decided to leave the Justice Department's Civil Rights Division.

MR. McKEOWN: This is probably a question we're going to have to heavily edit because I'm not sure I'm going to express it the way I want to. Looking at your resume, when you worked at the U.S. Attorney's Office, forgetting about the Maritime Commission, it strikes me from the last session that your experience in Mississippi was the most impactful in your life.

MR. WATKINS: It was very impactful on my career.

MR. McKEOWN: So as I look at this, I said to myself, you would probably become the Morris Dees of your generation, particularly regarding Dees' civil rights legal practice from 1969 to 2001. He was a young lawyer from Alabama going out almost on his own to prosecute civil rights cases in light of what you had seen and experienced. Dees was one of the principal architects of a strategy that used civil lawsuits to secure a court judgment for monetary damages against an organization for a wrongful act.

MR. WATKINS: One of the lawyers who went to Mississippi with me went to the Legal Defense Fund and did some great legal work there. He argued cases in the Supreme Court. He was given much responsibility very fast. He had worked for the Legal Defense Fund while he was in law school. When he graduated from law school, this is where he went. I decided that if I wanted to go to work for the Legal Defense Fund, I would be coming in at the bottom, and I'd be doing what I was doing at the Justice Department.

There was a hierarchy when you go into any organization. I was not going to be handling large matters until I handled the smaller matters. So I didn't apply to the Legal Defense Fund.

MR. McKEOWN: I don't want to get too far side-tracked, but, when you came back, based on my review of your resume, you've also been involved in an amazing number of organizations over the years. Was there more of an African-American or Black awareness in your life when you came back to Washington and started to think maybe more about these issues?

MR. WATKINS: Yes and I was kind of a rarity. When I was in the Civil Rights Division, there was one other Black attorney from Columbia Law School. He was in the Appellate Section of the division. There were four Black attorneys driving up and down the roads in Alabama and Mississippi except me. I knew I was doing something worthwhile, but I wasn't getting experience to make me a better lawyer. I thought being a real lawyer was being able to file cases, write motions, and try cases. I wasn't getting that at the Justice Department. I interviewed at the Public Defender Service, and they were interested in me.

MR. McKEOWN: I've been told, and maybe you can correct me, that the Public Defender Service is one of the hardest places to get into for young lawyers.

MR. WATKINS: Now it is. But when I was applying, there were few Black lawyers there. When the Public Defender Service asked me to come back, I said I was going to take another job.

MR. McKEOWN: Washington, D.C. was not that far away from being a segregated city during the period of time we're talking about was it.

MR. WATKINS: It sure wasn't. I was in the Army in 1961 was accompanying a white soldier in D.C.; we were both wearing our Army uniforms. We had travel vouchers that the Army gave us to eat in restaurants while we were traveling. We were passing through D.C. and went into a restaurant on Pennsylvania Avenue in NW to get a bite to eat. It wasn't a fancy restaurant; it was a cafeteria. I walked in and sat down at a table and a restaurant manager came over to me and said, "We don't serve colored." I said. "What do you mean, I'm in the U.S. Army and I have valid papers that allow me to eat anywhere." I was going to argue with him. Then, the white soldier with me said, "Forget it, we'll go someplace else." So we left the restaurant. I was offended and upset. I realized later there was nothing I could have done about it. Remember, this was 1961. Things have changed since then.

I knew Columbia Law School trained me as though I would go to work for a corporate firm in New York. I also knew that certainly wasn't going to happen for me so I had to do something that gave me an edge by having qualities others lacked. If, as an African-American, I could say that I tried twenty cases in the federal District Court in Washington, I would have a big advantage because not many of my classmates would be able to say that. The U.S. Attorney's Office was to be my way of getting some experience that I could sell in the legal world.

MR. McKEOWN: Before we jump to Williams & Connolly, I want to go back to something at the Justice Department. You mentioned, I think, in the Civil Rights Division, there was only one other African-American lawyer.

MR. WATKINS: Yes. There was one other Black lawyer in that division.

MR. McKEOWN: When you came back post-Cambridge, had that changed very much?

MR. WATKINS: You have to make a distinction between the main Justice Department on Pennsylvania Avenue and the U.S. Attorney's Office at the courthouse. In the Civil Rights Division of Justice, I knew of Frank White, a Black attorney because he was a classmate of mine. The Justice Department was beginning to change when I was about to leave the Civil Rights Division. There was a need for more Black lawyers to go to the South to investigate civil rights violations.

In the U.S. Attorney's Office, there were two Black attorneys in the Appellate Section when I was there. In the Misdemeanor Section, Luke Moore had been the U.S. Marshal in the District of Columbia. Harold Titus, who became the U.S. Attorney after Dave Bres left, asked Luke to come into the office to run the General Sessions branch of the office. He was head of the branch when I came back from England and I was one of his subordinates. I had initial contact with the new lawyers and assigned cases to them.

Luke led the team that accompanied the Little Rock Nine kids to school when they were desegregating in Arkansas. I think he did that in Louisiana too when a little girl called Ruby Bridges was going to school.

She was in first grade. He and others did important work because their job was to make sure our young people didn't get hurt. He was highly regarded in the Marshal Service.

MR. McKEOWN: Did you ever have a sense that you were being treated differently because of your race in your Justice or U.S. Attorney's days?

MR. WATKINS: Not specifically, but, the problem for Blacks was getting an interview. I was interviewed because I had clerked for a federal judge. I was one of about seven or eight Black attorneys in the office.

MR. McKEOWN: That kind of brings us to your days supervising 30 or 40 people and not particularly being thrilled about it.

MR. WATKINS: It was interesting, but, it wasn't forwarding my career I thought.

MR. McKEOWN: What did you start thinking about at that time?

MR. WATKINS: I hadn't figured out what I was going to do after the U.S. Attorney's office. Here's what happened. Bill McDaniels from Williams & Connolly had a case in the Superior Court involving a druggist who was to be charged with selling large amounts of prescription drugs. The prescriptions were obviously false but he dispensed the drugs anyway. He came to my office and said, "Look, the druggist will give up his license and plead guilty to a misdemeanor." I don't remember what the exact terms were, but McDaniels sat there and talked with me for about an hour and 45 minutes because he didn't wanted me to prosecute the druggist as a felony offense because he'd go to jail. There was no question about that.

MR. McKEOWN: How old was he, the druggist?

MR. WATKINS: He was over 80.

MR. McKEOWN: Can you talk a little more about when Mr. McDaniels came in to ask to plead for a lesser charge against his client. Was that your sole call?

MR. WATKINS: No. It wasn't. Here's the way it worked. Defense attorneys would talk to the trial attorneys and say this case shouldn't go to trial for some reason or another. The trial attorney would say he could not make that decision. The defense attorney would ask to speak to me. I would listen to his argument and make a decision based on it. Sometimes I said this case is going to trial. That was part of my job as a supervisor. It was an important part, but I didn't spend every day on such matters. I left those decisions to the trial attorneys for the most part.

MR. WATKINS: I listened to McDaniels, and I said, "You talk Boston." After listening to Bill, I asked him if he was from Boston; he was. We talked about Boston, where I had lived and where he had lived. He said that if I ever decided to leave the U.S. Attorney's Office, give him a call and we'll have lunch.

MR. WATKINS: About six months later, my wife and I were at a cocktail party, when McDaniels came over and said, "Hi, Bob, How are you?" I introduced him to my wife. Later, she asked me who he was, and I said it's Bill McDaniels from Williams & Connolly. He told me that when I decided to leave the U.S. Attorney's Office, to come over and talk to him. I really thought he was offering to advise me about how I might further my career. My wife asked me if I'd gone to see him, and I said no. I hadn't decided to leave yet. She said, "He's telling you there may be a place for you at

Williams & Connolly.” So I called him shortly thereafter and he invited me to lunch. We met and he showed me around the Williams & Connolly office; he wanted me to meet Joseph Califano. He took me into Joe Califano’s office and says, “This is Bob Watkins, he’s an Assistant U.S. Attorney.” Califano said, “Bill tells me you’re a supervisor in that office.” He asked me what I was doing there. I told him, and he said that’s great, did I like it? I said it was very interesting. He said, “Okay, well good talking to you.” I also spoke with Paul Connolly for a short time. Afterwards, McDaniels took me to Duke Zeibert’s for lunch.

MR. WATKINS: At lunch, some other people from the firm came by and we sat around the table, had lunch, and made small talk.

MR. McKEOWN: Was this when the firm was on Connecticut Avenue?

MR. WATKINS: Yes. After lunch, I went back to my office. I didn’t meet Williams because he was out of town trying a case. About a week later, I received a call from Joe Califano’s secretary. “Mr. Califano would like to speak to you.” She said, “We would like to offer you a position as an associate in the firm. What are your salary demands?” I was absolutely floored. I’d never thought about salary demands. What do you want to make? I said I’m earning \$25,000 a year.

MR. McKEOWN: This was 1972?

MR. WATKINS: Yes. I said I don’t want to make any less than I’m making here. He said we can do that. When can you start? I told him that I’d like to go away in September because I promised my wife a vacation. He said, “Okay, when

will you be back?” I said the first of October. He said okay; let’s shoot for an October 1 starting date. I was floored.

Then Williams’ secretary called me. She asked, “Would you like tickets to the Redskins games?” I’d never been to a game and was not a Redskins fan. I knew I shouldn’t say no. But because having Redskins tickets was a big deal in Washington, I said I’d like two.

I returned from vacation in late September. I started at the firm on October 1, 1972.

MR. McKEOWN: I knew the way hiring was done in law firms; you come in as classes. But you were sort of a one off.

MR. WATKINS: Yes. At that time, there were only 20 lawyers at Williams & Connolly and I was the 21st. Now there are over 300 lawyers at the firm.

MR. McKEOWN: I would’ve thought it was larger than that.

MR. WATKINS: It’s interesting that there’s only one office. Williams was not only smart, he was wise. He said, “As long as there are planes, we can service clients anywhere. We’re going to stay here in Washington and only in Washington. We’re not going to have any satellite offices.” He said that, “I’ve seen law firms have trouble because they have offices in different cities. It causes fights about who is running the firm or how the pie is split.” He said, “I don’t think that’s a good idea, and as long as I am alive, we’re going to have only one office.”

MR. McKEOWN: That sounds very prescient, Mr. Watkins, because we're talking about the early 1970s, you weren't really talking about the mega firms that we've had since then.

MR. WATKINS: That's right. I think Williams was really quite shrewd. I had some law school friends who were partners at Wald, Harkrader & Ross. That firm had offices in Washington, Brussels Paris, and New York; the firm cratered. Many people were very unhappy about its demise.

MR. McKEOWN: That's not an unusual story, by the way, the cratering of multi-office firms. It has only become, my understanding is, more common. You said there were 21 lawyers at the time?

MR. WATKINS: I was the 21st.

MR. McKEOWN: How many were partners and how many were associates?

MR. WATKINS: There were no partners. It was Williams and his associates. For a long time, it had been the Law Offices of Edward Bennett Williams. When I was first there, I went in at the end of the year and Williams said, "You had a good year, here's your bonus." I wanted him to say what I did wrong, what did I do right. He said, "You're on track." After Ed got sick with cancer, an Executive Committee was formed. It consisted of Ed, and the lawyers who had worked with him for a long time (e. g., Ray Bergan, Jerry Collins, Paul Connolly, and Joe Califano). The Committee took over much of the firm's administrative matters.

MR. McKEOWN: Even before you joined the firm, was there much anguish in making your decision about leaving the U.S. Attorney's Office?

MR. WATKINS: Absolutely not. The firm had a stellar reputation.

MR. McKEOWN: Tell me more about Mr. McDaniels.

MR. WATKINS: He was somebody I felt I could go to talk to if I had any problems or if I had any questions.

MR. McKEOWN: Was he your rabbi?

MR. WATKINS: No, but Bill was closer to my age. I could go to see him and say, "I'm thinking about doing thus and so in a particular case, what do you think?" Then, he'd ask whether I'd considered this or that strategy in preparation of the case. He always had time for me.

MR. McKEOWN: Did you work on many cases with him over the years?

MR. WATKINS: I don't think I did. I handled one matter on my own for McDaniels. When I joined the firm, I was assigned to whoever needed help.

MR. McKEOWN: I knew Bob Weinberg very well. Tell me more about your encounters with him before and while you were at Williams & Connolly.

MR. WATKINS: When I was in the Appellate Section, I saw him argue a couple of cases in the Court of Appeals, and he was spectacular. The judges would ask him a question and he'd start answering, and he'd go on and on and on, and he always came up with a rationale that made sense to them. When I was in the Superior Court, one of my jobs was to monitor the police so they had fair line-ups. You needed so many African-Americans or so many white men over 6-feet tall. I would advise the cops who were running the line-ups. So I'd go to almost all line-ups. I'd say, "I don't think that line-up is going to pass muster." The D.C. Court of Appeals ruled that pictures of

the line-ups had to be taken. While I was supervising a line-up, Bob Weinberg objected to one. I said, "Well, I don't think this will pass muster if the identification is challenged in court. Why don't you just reset the line-up?" It was fair. Weinberg respected me as a fair prosecutor. I believe that he was as positive about me when the law firm was considering hiring me.

MR. McKEOWN: Why don't we leave it there for the time being, and we'll pick up on your time at Williams & Connolly and things you'd like to talk about it some of these cases.

MR. WATKINS: Okay.