

Oral History of Honorable Richard Roberts

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 Michelle Jones Coles, and the interviewee is Honorable Richard Roberts. The interview took place on Friday, June 1, 2018. This is the fifth interview.

MS. COLES: Good morning, Judge Roberts. What jobs were you thinking about as you were wrapping up your time in law school?

JUDGE ROBERTS: I had a pretty clear inclination toward public service, both when I went into law school and chose law school as something I wanted to pursue and when I finished my three years of study at Columbia. I had chosen after my second year, however, to at least get exposure to what the vast majority of the law students in my class at Columbia were headed toward doing, and perhaps the vast majority of Columbia law students were there to do, which is corporate law firm practice. So I chose for my second summer to work in a corporate law firm, Steptoe and Johnson here in Washington, D.C., so that I could get exposure to what I would be missing if I continued to pursue my public service interest.

Working at Steptoe was quite a good experience. It was a good firm, smart lawyers, good work that they gave me. I was fortunate in that regard. They invited me to come back to be a full-time associate. At that time, you had plenty of time to be able to figure out what you really wanted to do while you were looking elsewhere at other possibilities.

But true to my public service interest back then, I had also applied for what to me would have been my dream job, and applied to the Public Defender Service in Washington, D.C. At that time, and I think still, they

had the reputation for being the premier public defender service office in the country. So I applied there.

I also looked at the Department of Justice. It was public service. I applied to the Civil Rights Division. Some of the other students at Columbia Law School had already sort of paved a path from New York to Washington to the Department of Justice before I got there, so it was fairly natural to watch them, see what they did, and take an interest in what they had done.

There was a gentleman in the Class of 1976, John Moore, who later became Senior Deputy in the Education Section in the Civil Rights Division, who was two years ahead of me at Columbia. We had a gentleman whose name you might have heard of, Eric Holder, also in the Class of 1976, who went down to Washington from Columbia to join the Public Integrity Section in the Criminal Division at the Justice Department. He ended up during that twelve-year time he was there prosecuting some of the ABSCAM political scandals and many other things. And so it was easy to talk with them, get some information from them, find out what it was like, if I should apply, and so on. So I also applied to the Civil Rights Division.

When I got word that I was accepted to the Public Defender Service in D.C., well that just made my day. It made my week, made my month, made my year, because that's what I intended to do, become a criminal defense lawyer.

I think I mentioned to you that my reason for choosing law school was the uprising at the Attica prison in New York convinced me that there were so many men and women who needed a strong voice at the table representing their interests, both before being sent to prison and also while being in prison, and I thought I could be helpful in that regard being a criminal defense attorney. So I wanted to go to PDS. So I got the letter from Pat Hickey, who was the director of PDS, after I had gone down and applied and interviewed with them. I got the letter that I was offered the job. Well, as fate would have it, the Assistant Attorney General for the Civil Rights Division, where I had also applied, was Drew Days. Drew Days was, I think, the first African American Civil Rights Division Assistant Attorney General. He had been on faculty at Yale. He had done many other things that built up his civil rights credentials. He had been at the Inc Fund, and so many other things.

So then I get this possibility of working with Drew Days in the Civil Rights Division of the United States Department of Justice where I could work in the Criminal Section, and I, in theory, could combine my twin interests in criminal practice and civil rights law. So that was a real problem for me to try to figure out. Do I go ahead and pursue what my dream has always been since I decided to become a criminal defense lawyer, or should I go over to the Department of Justice and work in an environment where I can combine my interest in criminal law and civil rights law. It was not an easy choice. It was quite a dilemma, but I ended

up choosing the path I had not thought I would end up in when I first chose to go to law school, and I went to the Criminal Section of the Civil Rights Division.

The naiveté I displayed came out pretty quickly because when you work for the government in criminal practice, you are not a defense attorney. You are a prosecutor. So the idea that I would become a prosecutor was a little difficult for me to wrap my mind around, but when I saw what the portfolio was of the Criminal Section and what work they actually did and what they actually did to enforce and pursue the rights of people who were victims of civil rights violations, that hesitation I had about becoming a prosecutor melted away fairly quickly.

When I realized that I was going to be standing up in court and representing the United States as a prosecutor, but in cases where we were prosecuting police brutality matters, slavery matters, involuntary servitude matters, abortion clinic violence cases, church burnings, and other matters like that, I really said to myself I can do this. This I can do, even though I'm a prosecutor.

MS. COLES: I want to ask you a question about the application process. You applied for the honors program at DOJ? Were you able to identify which divisions within DOJ you were interested in working in and even more, which section within the Division? How did that work? What were your interviews like?

JUDGE ROBERTS: Good questions, and I'd have to think back hard to remember exactly how parceled off it was. I know I applied to the honors program. I think that was the only program that hired straight out of law school. I got accepted in the honors program. I know I had an opportunity to express preferences for divisions. I'm pretty certain I expressed a preference for the Civil Rights Division. It may be that we had to list three. If that's the case, I probably listed also the Criminal Division, where my former schoolmate Eric was and could tell me a lot about it. I'm not entirely certain what my third expressed division might have been. I don't know whether I could have expressed a preference for a section within the Division at that point in the application process. There did come a point when I could express a section preference, but that might have come only after the program had decided that it was interested in me and wanted to perhaps put me through I don't know a second round of interviews, or it might be that happened only after I got an offer from one of the divisions. So I know I got an offer from the Civil Rights Division. I don't know that I would have heard from the other two divisions. At some point, I'm sure the Division would have asked for any preferences I had, and I'm positive I listed the Criminal Section as at least one preference. There may have been other preferences they asked you to list, but that was certainly I think tops on my list.

At some point I learned that that's where I'd be assigned. Your question is good as to at what point I learned that, and I don't quite

remember, but I knew that I was going to be assigned to the Criminal Section, probably at the point at which I had to decide to pick between PDS or between the Civil Rights Division.

MS. COLES: So you decided the Criminal Section of the Civil Rights Division. What was your experience like when you first started there?

JUDGE ROBERTS: Well, it was interesting. At that time, there were 18 line lawyers and three supervisors, two deputy chiefs and one chief. That was also a time when the geographic distribution was the same as it is today. We still had to cover all 50 states, the District of Columbia, Puerto Rico, Guam, Virgin Islands, and I've probably left off one or two territories, and apologies for doing that. So the geographic distribution was the same back when we had only 18 line lawyers as it was when I left the Division later on during my second tour of duty, when we had a far more expanded number of lawyers.

When I got there and I started on September 25, 1978, my official title was General Attorney. It was not Trial Attorney. I think the reason for that is because I had not yet been sworn in to the New York bar. While I had taken the bar that summer after law school and before starting work, and I passed that bar, New York had a practice of being fairly slow in completing the background investigations. You actually had to have investigators looking into your background. I think I had to go up to New York for a background investigation conducted by a member of the background committee. As I recall, it was fairly perfunctory. I'm not

even sure that the lawyer who interviewed me had read my file before I got there.

In any event, New York had not scheduled me for being sworn in until February, the very end of February, of 1979, so I was assigned as a General Attorney from September of 1978 through the end of February of 1979.

I did many of the things that Trial Attorneys had to do, but I could not appear in court. I could not sign pleadings. I could not appear in a grand jury, and so on. But what I did do, is I received initial reports. Some of them were FBI reports about potential violations. I would read through them and assess them for merit, assess them for what, if any, further investigative activities would be appropriate, which of any of the reports showed that there was no basis for continuing and what should be closed out. Those generally required me to write up, particularly as a new lawyer, some long form that reflected my reasoning as to why we should do more investigation, why we should send this forward for prosecution, or why we should close this investigation out. Those always were reviewed by a deputy chief or supervisor, and then it would be handled beyond me from that point if it were to be something to go forward to a grand jury investigation. I was able as a General Attorney to make recommendations about further investigative steps to be taken by the FBI agents and the field offices, about whether to go forward with prosecution or initiating FBI investigation.

Well, the end of February of 1979, I went up to New York to the Second Department, Appellate Division of the New York State Supreme Court and appeared in their Brooklyn courtroom chambers and got sworn in as a member of the bar of the State of New York. So as soon as I got back to Washington, my title changed from General Attorney in the Criminal Section to Trial Attorney. That means I could go full bore and do what all the prosecutors were there to do.

As it happens, however, the Criminal Section, as with perhaps some other sections in the Department of Justice, like the Criminal Division sections, as soon as I was back in Washington with my bar license and with the title of Trial Attorney, I got shipped off immediately to the U.S. Attorney's Office in D.C. to be what they call a Special Assistant U.S. Attorney. The program often was a program that lasted 90 days then. The idea from the Department of Justice's point of view was they send me off to get some trial training under my belt before I came back to have to actually try Civil Rights Division cases, and it was sort of a freebie, and it was a win/win situation. The Department of Justice could send me to the U.S. Attorney's Office without having to pay anything extra. I would get this trial experience, investigative and trial experience, at the U.S. Attorney's Office at no expense to the Department of Justice Civil Rights Division. It was a win/win for the U.S. Attorney's Office. We were going to the Misdemeanor Trial Section, which was always understaffed. The largest volume of cases that the U.S. Attorney's Office

had in the Superior Court division was in the Misdemeanor Trial Section, so they were delighted to have yet more people that they didn't have to hire and pay to come and handle some of these misdemeanor cases.

So I got shipped off to the U.S. Attorney's Office first thing of March 1979 where I stayed through June of 1979, and I experienced trial by fire. We first got there and we were sent in the Misdemeanor Trial Section to the papering office. That means it was the intake office. That was the place where police officers or other federal investigative and law enforcement agencies would come to see an assistant U.S. attorney with a referral about an arrest that had been just made. Usually the night before they had made some arrest for some purpose that resulted in the likely misdemeanor charge. They would present us with their written report. They would sit down and tell us what actually happened. We would have a chance to ask them any additional questions for details that may not appear in their report. We would make some initial prosecutive merit decision. Sometimes right on the spot we could tell them yes, we want to so-call "paper" this. "Paper this" means we'd write up a complaint or write up an information which contained a misdemeanor charge and would then send the case forward in the system and it either resulted in an arraignment on the information or resulted in the issuance of an application for an arrest warrant to have that person brought back to court. Or we'd decline it right then and there and say well for whatever reason, this lacks prosecutive merit. Thank you for coming in, but we're not

going to charge this. If your arrestee is still in custody, discharge the person, or if the person is wondering if anything else is going to happen, he or she should be informed that it has been no-papered. So after some initial orientation sessions in the U.S. Attorney's Office as to which were the most common offenses that we would see in the intake office in papering, we would actually be assigned to be those papering assistants.

Most of the cases that we saw involved unlawful entry cases, trespassing, drug offenses, misdemeanor possession of certain kinds of drugs, like "bam" and "Ds" or preludin and dilaudids. Those were some of the common arrests that would be made on the street or purported sales that the officers would see often in the 14th Street corridor running maybe P up to U Street, 14th street northwest.

I will tell you that it looked very, very different then that it looks today. You could go up 14th Street, T Street, S Street and 14th Street, and you would see dozens and dozens of young men sort of congregating there, not looking like they were doing too much, but you knew exactly what was going on. There were hand-to-hand sales going on. You had certain locations where a certain kind of drug would be sold, and clients knew where to go to get what drug. So we'd get a lot of drug arrests like that. Sometimes they were undercover purchases. Sometimes they were hand-to-hand sales that were just witnessed by the officers, and they would go up and make the arrest of not only the buyer but the seller, and the prosecution would be based upon eye-witness testimony of the

officers, followed up by later searches of the buyers and the sellers. So there were drug arrests, there were unlawful entry arrests, there were possession of handgun arrests, there were prostitution arrests. I learned quickly that that practice really was one that generated acronyms. UE was unlawful entry. CPWL is possession of a weapon without a license. I forgot what the "C" stands for.

MS. COLES: Criminal?

JUDGE ROBERTS: Maybe criminal. Criminal possession of a weapon without a license. PPWA and PPWB. There were two different kinds of arrests. There was possession of prohibited weapon A, possession of prohibited weapon B. I frankly don't remember what the distinction was between A and B. One had to do with the type of weapon that it was, and the other one was a different category. So there were CPWL and PPWA, PPWB gun arrests. UE was unlawful entry. I'm trying to remember the acronym for the various drug arrests, and that will come to me when I'm not trying to think about it.

MS. COLES: You said you came into the field of law wanting to be a public defender and on the defense side, and you reconciled going to the Criminal Section because you would get to prosecute the type of cases that you felt comfortable prosecuting, but at the onset, you had to have this experience. How did that make you feel? How did you handle that?

JUDGE ROBERTS: I had to swallow hard and swallow deeply and take deep breaths and say well, I guess if I'm going to end up doing the kinds of prosecutions that I

feel comfortable with and really want to do, there are going to be steps you have to go through in order to get there, and they're telling me this is one of the steps I'm going to have to go through to get there.

How did I feel? I did not feel comfortable. I did not enjoy this steady stream, usually of young African American defendants, being prosecuted in cases where I could have seen myself easily defending them, but you have to do what you have to do sometimes, and that was one of the, I guess, prerequisites to becoming a federal prosecutor who can effectively and knowledgeably know what it takes to put together a good case, to be able to investigate a good case, and to be able to prosecute a good case that happens to have criminal civil rights charges in it. So it was a bit uncomfortable.

MS. COLES: I was going to ask at the same time as a prosecutor, you got to make those initial calls of papering. Did you feel like you were able to add some integrity that you may have questioned existed in the system in your role?

JUDGE ROBERTS: That was one of the saving graces. Sitting there as a papering assistant with a heart of a criminal defense lawyer, I was still able to sift through in my own mind a couple of basic questions. Is this the right thing to do? If it is, are we doing it fairly? Because there were times when you would sit in that office, and there were times when you would see a law enforcement officer come in, sit down in front of you, recite to you what you thought was simply parroted, memorized words when describing how an arrest or a search when not pursuant to a warrant occurred, and it kind of made you

think this sounds too rote. And what could you do? Well, you could question the officer more. Sometimes you would come up with more information. Sometimes you wouldn't. When you did not feel that you had gotten enough to satisfy you, you could go to your supervisor, get guidance from your supervisor if you thought that would be useful. I don't remember if they had a process where the papering assistant, particularly a junior one in my situation, could simply say we're not going to paper this and file a decision, but I did feel that there was usually some process through which I could question more whether this was right and whether this was fair.

I recall when I did that one time it was as a result of an officer sitting right in my face in front of my desk, and I was asking him a question. It might have been either in papering or in witness prep when I knew that we were going to take a case to trial and I had to do the direct examination of the officer. In any event, in doing more witness prep to dig for more information, I asked a question, and at some point he said well, what do you want me to say? I mean that blew off all kinds of alarms. That was not acceptable. I can't remember if what I did was take that to a supervisor in the papering process or whether it was right before trial, and I had to make the decision that I've got to question this guy more because if what he's saying to me is well, I don't know what happened, so just tell me what you want me to say, which I was not going to do, put him on the stand and have him just put up any old answer that would satisfy

legal examination if it was a warrantless arrest or search. That just wasn't going to happen on my watch. I can't remember the outcome of that. I remember much more the feeling that struck me when I had a sworn law enforcement officer say to me, well what do you want me to say. That just wasn't going to work.

MS. COLES: Do you remember your first trial?

JUDGE ROBERTS: Interestingly, no. I don't. It may be because what I walked away with was I think I had eleven trials in that Misdemeanor Trial Section, so I guess when I left, I left with what I thought I remembered to be my win/loss record and my jury/non-jury record. So when we were going to trial, we would either be going in front of juries or we were going to try the case just in front of judges. But candidly, I don't remember. I can remember the kinds of cases we had to take to trial. I can't remember actually what happened in the middle.

I told you that we started out doing paperwork. That was sort of the first clump of activities. The middle clump of activities involved discovery. We would be the discovery assistant on duty. These cases were not handled in a vertical fashion. In other words, when the case came in and the papering assistant made the decision to keep it, that papering assistant didn't keep the case. The next thing that happened was it would be forwarded to the discovery group, so whichever assistant was on duty the next week or the next two weeks in the discovery pool would get the file, sight unseen and look at it. The defense attorney usually, from

PDS, would come in and say I want to do discovery in case number 1502, please give me the discovery to which I'm entitled. And the rules entitled that lawyer to certain prescribed documents and information in discovery, police reports, any exculpatory information, Brady material, and so on.

So I, in my role as a discovery assistant, would have to look at the file knowing nothing about it, never having talked to the assistant who did the papering and figure out well what's going on, what is it that's relevant, what is not relevant, what is Brady, what's not Brady, which ones are the reports that they're entitled to. That usually wasn't hard. Which ones are attorney work product, because the papering assistant wrote his or her own notes that are not entitled to be seen by the other side, and so on. So after you go through that, that's when we started going to trial. So we realized what the papering judgments had been, we realized when discovery had been provided, but then you got the file as a trial assistant. But it, as I say, was not a vertical process.

When you were on trial duty, you get a call from the deputy chief of the section saying you've got a trial in front of Judge Morrison in a half hour in courtroom 11, here's your file, your witnesses are in witness room 2, go interview them, prepare in your mind your opening statement, and your trial is in a half hour. That was trial by fire. That's what we had to do, whether it was a jury trial or a non-jury trial. That's how we got it. The trial lawyers who had to try the cases met their witnesses five minutes before trial, a half hour before trial. And particularly if you had a jury trial

you also had to process in your mind what kinds of jurors am I looking for. What kinds of questions should I use in voir dire in selecting juries? What kinds of biases should I look for? So you had to go through all of that stuff before actually starting an opening statement in front of a jury. Sometimes you waived opening if it was in front of a judge. Most of the time you didn't because you wanted the judge at least to know what the case was about and what the judge was about to hear.

So that's the kind of a case we got. We got the case docket. We had to read the arrest reports. We had to read the notes from the papering assistant so we would know what discovery was provided so that if defense counsel objected to use of some item by saying we never got that in discovery, we have to know what was and wasn't provided, and we'd have a half hour to prepare to try the case.

Now these were not trials of the century. These were not cases where you have 6,000 pages of discovery, so I don't mean to overblow it, but still, brand new lawyer, just been sworn into the bar, had never tried a case, and it's trial by fire.

But I will tell you as much sleep as I did not get, knowing when I got into the trial pool, I'm going to have to do these things by the seat of my pants, there was a certain amount of energy that it generated knowing well at least I get a chance. At least I'll know what it's like to stand up and represent the United States. At least I'll know what it means to have to do voir dire to select a jury. At least it will give me practice in

conducting direct examination of a witness, or cross-examination of a defense witness. At least it will give me some experience in knowing how to frame what's important when giving an opening statement before a jury or judge, and how best to meet defense arguments and how best to weave what's important into a closing argument or a rebuttal closing argument.

So, I think you had asked about numbers. I think I had eleven trials. I think it was almost 50/50 bench and jury. I probably lost more than I won. If it was eleven trials, I probably lost six and won five. I would suspect that the win/loss was half and half on the non-jury and jury, so half the jury trials I lost and won half. Half the bench trials I won, half I lost. It might have been different. I'd have to go back and check.

MS. COLES: Were they usually one-day trials or longer?

JUDGE ROBERTS: Oh, I'd say that they were mostly two to three days. When there were jury trials, it still took you sometimes a morning to pick a jury, and that was often because some of the judges would require the jurors to write out a little maybe a ten-question questionnaire up front. Some judges didn't. But you still had to exercise peremptory challenges and make arguments to strike jurors for cause. So often it would take a full morning, if you started first thing in the morning, to be able to do the voir dire. Oftentimes you would say okay the trial starts at 9:00 a.m. in front of Judge _____, but he'd have other things he was doing and didn't get to you until 12:00, so you'd actually get some preliminary conference, break for lunch, and

come back at 2:00. So anyways, the trials would sometimes stretch over a day.

There were cases particularly in a bench trial, we could finish that in a day, but I'd say most of the cases back then would be one to two-day trials. And back then, before the Misdemeanor Streamlining bill was passed by the D.C. Council, there were more cases that were tried to juries than there are today. The Misdemeanor Streamlining bill caused many offenses that were prosecuted to be eligible for bench trials only and not jury trials. That I think was a result of the council lowering the maximum punishments that a defendant would face when charged with a certain misdemeanor, and that lowered the charges to a petty offense which aren't jury demandable instead of one-year offenses, which are jury demandable. So three months of Misdemeanor Trials, special assistant U.S. attorney, trial by fire ended I guess in the end of June, maybe beginning of July, and I came back a seasoned junior lawyer to the Criminal Section of the Civil Rights Division.

MS. COLES: Some time in 1982, you made the decision that you wanted to leave the Criminal Section of the Civil Rights Division. What prompted that?

JUDGE ROBERTS: Well I had a very good four years. All the work I had done, though, was in the criminal arena. I had decided that litigation was something I very much enjoyed, but I thought I could not bill myself as a complete litigator without getting at least some exposure to civil litigation, and so that really prompted me to look to see what opportunities there might be to do some

civil litigation. I was fortunate at that time to have met a very outstanding lawyer named Tom Williamson. Tom Williamson was, I think, the second black partner at Covington and Burling. He was an extraordinary human being who had gone to Harvard undergrad after having turned down a full scholarship to go to Stanford because it was a sports scholarship, and he wanted to not be tied down to the requirements that students had when they accepted sports scholarships. He wanted to engage in the fuller life of a student in the liberal arts academic environment, so he was recruited by Harvard and went there. I'm sure they gave him some money. I'm not sure how much at all. He was from California.

In any event, Covington did the wise thing of hiring him on as an associate, and when he was a fairly senior associate at Covington, I think it was at that point that I met him. He had become very close friends with a classmate of mine from Columbia Law School who had also gone down to Washington and had introduced me to him, and we struck up a friendship when he learned, I guess around 1982, that I was interested in trying to get some civil litigation experience. Tom was very key in persuading me to look at his firm, Covington and Burling.

MS. COLES: Was he an associate or a partner at that time?

JUDGE ROBERTS: I think by that point he had been a senior associate. He might have been a partner at that point. What happened was when President Carter was elected, the Energy Department persuaded Tom to become a Deputy Inspector General for the Energy Department, so Tom took leave from

Covington, became the Deputy Inspector General in the Carter administration in the Department of Energy, and, at some point, he came back to Covington.

I should mention later on when a Rhodes Scholar classmate of his, Tom got a Rhodes Scholarship after Harvard, and he went over to England and participated in the Rhodes Scholar program where a classmate of his who's name was William Jefferson Clinton later went on to become President. Clinton persuaded Tom Williamson to join his administration as the Solicitor of Labor. In other words, the chief counsel for the Labor Department. So he headed up the legal department.

In any event, I mentioned that Tom has always had a soft spot for government service as well, so while he was, I think, a senior associate during the Carter Administration, Tom was serving as the Deputy Inspector General at the Department of Energy, later came back to Covington.

I can't pinpoint the exact time when he and I began discussions about him interesting me in coming to Covington, if he had by then become a partner or was still a senior associate, having come back from the Energy Department. In any event, I think it was principally through him that some interviews were arranged at his firm for me to go speak with them, have them take a look-see at me, and have me take a look-see at them. Well things worked out, and they offered me a position as an associate, and I ended up going to Covington and had Tom as a mentor,

and I was very fortunate because our acquaintance blossomed into essentially a life-long friendship. We sadly lost him last February, but we continued our friendship. We got married around the same period, had kids around the same period of time. We did summer vacations together on the Outer Banks of North Carolina. The story goes on. Our kids trick-or-treated together. We always did Mother's Day and Father's Day and Christmases and Kwanzaa together. So it developed into a full-blossomed friendship between our families.

In any event, Tom was the lynchpin that got me interested in Covington and got Covington interested in me. So it was in the fall of 1982 that I went to Covington. I believe I continued to work at the Justice Department through September of 1982.

I gave myself the present of having a six-week vacation between jobs. The first time I was able to take that much time, so I did a cross-country drive during that six-week period, principally in October of 1982. I had my 1978 Plymouth Volare 4-door sedan that I had bought used earlier that year in 1982. I got in that car, and I drove by myself about 10,000 miles across country and back. I took the middle route out. I think it was Interstate 80. I drove from Washington, and I think I made a stop in Cleveland and then made a stop in Detroit. I made a stop in Chicago because I had family members there. I didn't know many people between there and, I think, Omaha, Nebraska, where I think I stopped overnight someplace then drove from there to Denver where my sister lived. I

stayed in Denver and did little day trips to ski resorts, and then I wanted to really see Big Sky Country, what I call Big Sky Country. I think people in Montana claim the Big Sky Country term as being theirs, but to me, not anything west of the Hudson River in New York was Big Sky, but certainly anything west of the Mississippi River out in that northern mountainous area was Big Sky Country. So I had a chance to go beyond Denver to places like Wyoming, Idaho, and some other places. Again, driving in my little car all by myself. I had my pamphlet that identified the locations of every Motel 6.

MS. COLES: No Google?

JUDGE ROBERTS: No Google [laughter]. I don't even think the Internet existed back then. But happily I had the brochure that identified all them all. Motel 6 had this very popular commercial on the radio advertising Motel 6, and there was a guy named Tom Bodett who ended each of the commercials by saying, "This is Tom Bodett come on and see us, and we'll keep the lights on for you," which sounded corny, but I tried it out once, and they actually had very clean sheets, clean bathrooms, and they were priced very reasonably. I think back then it might have been \$19.99 per room. So I kept that and, when I was not with a relative, stayed there. But I got my chance to see Big Sky Country, and when I hit California, I hit the area of northern California. I had a cousin there who lived I think in Oakland, and he, let's say he is quite a vibrant guy. He had two motorcycles. At that time, I was a motorcyclist. He had a 1,000 CC engine motorcycle and

1,100 CC motorcycle. So it's 12:00 midnight, he wakes me up. I was staying with him for the night, let's go ride the motorcycles. So Vernon convinced me to put on a helmet, get on a 1,000 CC motorcycle, where all I'd really ridden in my lifetime was a 450. I had a Suzuki 450 that I had been riding back here in Washington. So I got on this motorcycle that was more than twice the size of engine I was accustomed to, and he took me across the Golden Gate Bridge at about 100 miles an hour. There was no traffic, and he said let's live. We were going across the Golden Gate Bridge, 12:00 midnight, 100 miles an hour. My stomach, my heart came up into my mouth. Fortunately, I made it back in one piece, and I told my cousin thank you, but don't you ever do that to me again. He said, okay, alright. Well tomorrow we'll go up and take a flight in a Piper Cub. He had a pilot's license, and he took me up. Because he had a license, he could rent a Piper Cub, a single engine plane, two-seater. He took me up flying around the San Francisco area because he knew I wanted to just have some fun, new adventures before I started another job.

So that's the middle of my cross-country drive. But I took that scenic route down Route 1, I think it is, in California down to the LA area, and I cut across into Nevada where I got my first chance to see Las Vegas. I didn't spend a lot of money, but I went into the casinos just to see what it was like, then I cut across through Arizona, New Mexico, and then I think I went up through Texas, up into Oklahoma, and then through Arkansas

and through the piece of Arkansas that touches Tennessee. I went through Tennessee and then back into Virginia and D.C.

MS. COLES: How long was the trip?

JUDGE ROBERTS: Five weeks. I had given myself a six-week window between leaving the Justice Department and starting at Covington, so I probably had a few days before I left on the trip and a few days after I got back. But I took five weeks driving by myself in my 1978 Plymouth Volare four-door sedan that I just bought and drove cross-country, and it was one of the best vacations I had ever had to that point. It was refreshing to see so much of the country I had never seen. Now I did chart a route that did not take me through. You noticed I said I went through Texas, Oklahoma, Arkansas, Tennessee, and Virginia. I charted the middle route out, and I took the southern route, I think that was I-10, coming back. But in Texas, I started to head north again because I, as a New Yorker, as a son of parents who had lived in the South through the Jim Crow era and had lived in the Carolinas and heard so many stories about Alabama and Mississippi and I had worked in the Civil Rights Division where we continued to have a large flow of racially motivated violence cases, even police violence cases, coming out of Alabama and Mississippi, and I had never gotten cases that took me to Alabama or Mississippi, I didn't think traveling as a black man alone, all hours of the day and night through those two states, was the wisest thing to do, not that there were other parts I traveled to that were completely safe, but I just decided to avoid Mississippi and Alabama.

But anyway, I came back and had a few days before I had to start at Covington, but I did start at Covington and Burling. Again, veered far from my initial goal of becoming a criminal defense lawyer when I first decided to go to law school, but as you grow, you learn more things, and you add additional interests, and the interest I had added was to become a complete litigator. If I had only done criminal work as a litigator, I did not feel as if I'd be able to know the full range and scope and meaning of litigation. So that was my opportunity to spread out into civil litigation, and hopefully toward the end of whatever period of time I thought adequate to get civil litigation experience, then make the next set of judgments, but that's why I went there.

MS. COLES: How was the experience being at a law firm for the first time, other than as a summer associate?

JUDGE ROBERTS: Well, I can tell you that one of the first major things that I was able to experience and appreciate was on payday. I need not tell you that the remuneration from private law firm work was a bit higher than public service work.

MS. COLES: Let's talk numbers. How did it compare back then in the mid-1980s?

JUDGE ROBERTS: Okay. The best I recall, when I signed up with the Department of Justice and accepted the offer to go to the Civil Rights Division, in 1978, while, I guess, I was still a student at Columbia, I believe the offer had me starting as a general attorney at \$17,000 a year, which for me for my first job, hey, I could live off that. That was good money. By the time I got to the Civil

Rights Division, the new fiscal year pay scale adjusted so that what I actually earned was I think \$18,000, and I felt like hey, I'm a hotshot. I got a \$1,000 raise even before I started working. So I got \$18,000 per year as a salary. Over the four-year period, I think there were sort of step increases, and after a certain number of years or a year, you got a grade increase. I think you started out as an 11. After one year, you qualify for getting a GS-12. Now it may be that by the time I left the Justice Department, I was able to be bumped up to a GS-13, but I'm not positive about that. But I think that by the time I started at Covington and Burling, I started at a salary double the salary I started out with when I started working at Justice. I think I was making \$36,000 a year, which to me was "what am I going to do with all this money?" But that's what the rate was for an associate at that time. I don't know if I was billed as a third-year associate or a fourth-year associate, but for a single guy, it was jaw-dropping.

MS. COLES: Did you buy anything outlandish with your first paycheck?

JUDGE ROBERTS: The short answer is no, and I think the first thought I had was put some money away. My parents were quite, particularly my dad, was quite wise in counseling frugality. You never know what's going to happen. You never know when you might need it, so you take a piece of that check and treat as if you just don't know it's there. Put it away somewhere. It will grow. When and if you need it, it will be there, but don't depend upon it. So I got into the habit of peeling off a piece of it, putting it somewhere and

just ignoring it. I didn't live as if I actually had 36 grand every year. I geared myself mentally toward living as if I had less, but even cutting off a little less than 36 at that time was still more than enough for a single guy.

MS. COLES: Did you stay in the same apartment? Did you move?

JUDGE ROBERTS: I moved. I had a rental apartment at 301 G Street, Southwest. It was apartment 310, when I first moved to Washington, and I lived in that rental apartment until I moved to a different rental unit, and in 1983, if I remember correctly, part of that money I had ignored allowed me to get a down payment on a townhouse that was a purchase, not a rental. So I moved into 715 Third Street, Southwest, back to Southwest, in a townhouse, Capitol Park community. Capitol Park II is what it was called. So I was then building up equity in homeownership. It was 1983, so I was I guess five years out of law school, which might be a fairly not atypical time for people to start buying. I think it's a lot harder when you have a family, but as a single person, it was a little easier because I did not have the kinds of expenses that families would have, and I did try to follow my father's advice about put some aside, just ignore it. That enabled me to get a down payment. I shopped around for good interest rates on mortgages, and that was my first home purchase, five years out of school.

I probably felt a little better about buying making a Covington and Burling salary than I would have felt had I continued to be on a government salary buying as early as I did just five years out of law

school. That to me, however, was not an extravagance. That was more of an outgrowth of what my father had advised about being sensible and projecting into the future and being wise and being frugal. It was buying into a situation where I could build up equity as another little pocket where something of value could grow.

MS. COLES: What type of case work did you do at Covington?

JUDGE ROBERTS: Well, I was with the group that did principally civil litigation. I remember working with Bill Iverson, who might still be at Covington, on some litigation that involved trade dress infringement. There was a company owned by two brothers in Pennsylvania who had put together a very successful, essentially a weight-loss food company. Customers would buy packages of food that came with instructions about when to eat it, how to fix it, and so on, and the goal was weight loss. There was another merchandiser out there who was suspected of trade dress infringement. In other words, some of the packaging that these brothers who were our clients had been using, it looked like this other guy was sort of a knock-off of what they were doing. I had no idea what trade dress infringement was. It gave me a window into what that was and what litigation about it meant.

I had an opportunity to work, as most junior associates do, in the discovery practices, drafting and responding to interrogatories, requests for admissions, defending and taking depositions, responding to motions that might be pending. So I was doing a fair amount of that. But I also represented some corporate clients in federal grand jury investigations. I

was also able to represent some pro bono clients that were looking to incorporate and secure tax-exempt status. One of them was the Charles Hamilton Houston Legal Preparation Institute. Donald Temple was a Philadelphian who had moved to Washington, D.C. and had been the founder of the DC chapter of Concerned Black Men. I was also one of the co-founders to help him build up the D.C. chapter. The goal was obviously to provide positive black male role models for young people here in D.C. and to spur their community involvement and academic advancement. But Donald also instituted the Charles Hamilton Houston Legal Preparation Institute aimed at getting pre-law students of color and law students of color well-prepared for the challenges they might face in law school. By that time, I was at Covington, and I was able to persuade Covington to allow me to take on Donald Temple and his institute as a client to get their 501(c)(3) incorporation and to secure their tax-exempt status so they could go raise money and proceed. That institute, interestingly, has succeeded in producing, I don't know, hundreds of students of color and helping them through law school. They are still in existence thirty-some-odd years later, and Donald Temple is still a firebrand doing what he does.

So the firm experience wasn't simply the litigation, but it also allowed me to reach back into the community. Much of the time with Williamson's encouragement and support and do things that would be important to our community. But I also had spent a fair amount of time

defending a large pharmaceutical company that was being sued for product liability claims in connection with a pharmaceutical product that it made for the purpose of addressing certain maladies. Plaintiffs had sued the company because of an alleged defect in this product. I was involved in, I'm trying to remember if it was a class action, but there were certainly large numbers of individual cases filed by plaintiffs all over the place where the firm, Covington, was coordinating counsel nationally. I was involved with coordinating with in-house counsel at this pharmaceutical company in defending these claims. We were doing it at the discovery stage to coordinate this nationally so that the left hand in one district knew what the right hand in another district was doing. We frequently got the kinds of interrogatories and discovery requests from different plaintiffs in different districts that overlapped, so we played a role in coordinating the kinds of responses that the company would produce in connection with those requests. And that was interesting because it required often that I'd fly out to where the client was and deal with the client's in-house counsel and some others who were out there. It also required sometimes the partners at Covington and Burling, Jack Schafer and Jim McKay. Jim McKay's son is now, I think, one of the leaders of the D.C. Bar to get together to discuss what does all this mean, what's the best way to service the client, what's the best way to advise the client about doing what's right and doing what's fair. Obviously the client ends up having most of the

say on ultimate decisions, but we had to counsel them on these kinds of things.

Interestingly, I was in the same, I think, entering class at Covington with a guy who also represented some pharmaceutical entities and who later, as it turned out, Bruce Kuhlik, ended up being the Commissioner of the Food and Drug Administration, and we were associates at Covington and Burling at the same time.

I had wonderful experiences at Covington and Burling. The first black woman to become partner at Covington and Burling was Phyllis Thompson. Phyllis Thompson later went on to become a judge on the District of Columbia Court of Appeals where she still is. She might be one of the senior judges there now, most tenured, highest up in tenure. Phyllis is a phenomenal, and has always been, a phenomenal intellect and a fair person. She has her own family. She brought a perspective to the work she was doing at the firm and the work she does on the Court of Appeals that combines not only that of a mother of a young girl, but that of an African American. What perspectives she brings as a woman, as a D.C. resident, as someone who can bring a variety of experiences to the work she was doing as a private lawyer to the work she is doing as a judge.

That was one of the other benefits, among others, of working at Covington and Burling. So I got my window onto civil litigation, what it means, what goes on with it, what you have to do, what skills are

important. I got a window into the environment of law firm practice. I got to meet some extraordinary folks, and so I benefited quite a bit being there.

MS. COLES: Alright. We'll stop there for today.

JUDGE ROBERTS: Alright.