

## 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 September 7, 2018. This is the sixth interview.

MS. COLES: Judge Roberts, could you tell us about your experience at the law firm of Covington and Burling and what types of cases you worked on.

JUDGE ROBERTS: Yes. I worked principally in litigation, and I was assigned to a number of the partners who were handling matters in litigation at the time. One of the major clients of the firm at the time was United Airlines. United Airlines was one of the major carriers, but it did not have a Pacific operating division that ran a lot of routes over to Asia. Pan Am, Pan American Airlines at the time, was one of the airlines operating worldwide. It was an American operation, but it operated, had routes, worldwide. Pan Am's fortunes were declining at the time, and one of the decisions that they had made was to try to sell off its Pacific operating division, which would mean selling to a buyer the routes that they owned, some of the facilities that they owned in Asia and in the United States that served Pan-Pacific routes and so on, transferring employees that were servicing those things, and so on.

United Airlines was represented, as I recall, by Covington, and in the process of the discussions with Pan American, some litigation arose with regard to potential antitrust matters. Antitrust was a major practice of Covington, but also some litigation involving the potential sale of the Pan Am Pacific operating division, and I think the price was about

\$750 million at that point. But I was assigned to work with a couple of partners, I think it was Bill Iverson and Jim Atwood, in their representation of United Airlines with regard to some of the litigation that spun off from that negotiation between United and Pan Am.

One of the other litigation-related matters had to do with the firm representing a company called Nutri-System, which was based in Philadelphia or just outside of Philadelphia. Nutri-System was a company that marketed weight loss routines and products and systems. They had their own food line and their own, I guess, process that they would sell to customers who would buy into their system where they were required to eat certain food products that were manufactured by Nutri-System and follow a certain routine about when to eat, how much of it to eat, and so on. Nutri-System at the time was owned by the person who also owned the Philadelphia 76ers team, Harold Katz. He and his brother, whose name, I think, was Robert Katz, were some of the principal managers of the Nutri-System company. There was an individual who, if I recall correctly, started out his own independent weight-loss system, and the Katz brothers viewed him as having essentially used knock-offs of Nutri-System's trade dress and Nutri-System's diet routines, and so there was a trade dress infringement action that was brought against this other person who might have been a disgruntled franchisee. Nutri-System was essentially run as a franchise. There would be independent business people who would buy into the franchise, open up their independent Nutri-

System shops, but they would have to sign a franchise agreement with Nutri-System headquarters, and it may be that the individual I'm thinking of, and again, this was many, many years ago, was a disgruntled franchisee who decided to open up his own independent food line. But in any event, Nutri-System had retained Covington and Burling, perhaps for multiple purposes, but certainly to pursue a trade dress infringement action against this other independent dealer who had opened up a weight-loss system that was alleged to have infringed upon the trade dress, the intellectual property of Nutri-System. I prepared the case for trial but the defendant settled on the eve of trial.

I think there was also some litigation brought by franchisees against Nutri-System. There were hundreds of franchisees by that point, and a number of them had some complaints about how the Nutri-System company headquarters was running, what they were and were not doing for the franchisees, how they were or were not complying with the franchise agreements, and there was a class action that was brought against Nutri-System. Nutri-System had retained Covington and Burling to help defend against that franchisee antitrust class action, and they were challenging, among other things, the company's direct food sales as a violation of the franchise agreements, and the allegation was that direct food sales by the company to customers was harming the franchise food sales, and I think I was working with Bill Iverson, potentially Jim Atwood, in connection with that litigation.

Probably one of the matters or clients for whom I handled matters that took up most of my working time at Covington over time was the Eli Lilly company, pharmaceutical company. Eli Lilly's scientists had developed a generic drug called Oraflex. I think the chemical name was Benoxaprofen, but Oraflex was on the market, I think, for only about three months after the Food and Drug Administration had approved its marketing. There were some lawsuits, product liability lawsuits, filed against Eli Lilly because of alleged injuries and fatalities. I think there was a fatal liver and kidney damage lawsuit that was brought. There was one Georgia action that was brought independently as a single action, not a class action, down in Georgia, and I think it ended with a \$6 million verdict, which might at that time have been the largest product liability award ever made for a wrongful death action involving a medicine, and I think that's what the *Washington Post* had reported at the time. But I think following that individual verdict, there was a class action brought by people who had purportedly used this drug reporting all kinds of bodily injuries, and Covington was assigned to work with in-house counsel and other regional counsel in coordinating the defense of Eli Lilly in connection with this class action suit. That necessarily meant that since there were a lot of potential class plaintiffs in different parts of the country with lots of different independent lawyers representing them in these individual actions aiming to be brought together as a class, you'd have litigation pending in many different courts throughout the country and

many different actions throughout the country, and there needed to be some national strategy that was unified in responding to interrogatories or requests for admissions or requests for production of documents. A lot of that basic information was housed, I think, documents-wise, in headquarters. Headquarters of Eli Lilly at the time was housed in Indianapolis, Indiana. So this was my sort of initial foray in civil litigation, particularly corporate defense. I spent a fair amount of time either on the phone or in person with in-house counsel at Eli Lilly trying to get a handle on what documents they did have, which ones were responsive to the request for documents that had to be responded to, how to handle depositions, requests for depositions of corporate officers, how to respond to interrogatories in a way that provided some kind of uniformity and was not helter-skelter.

MS. COLES: What year associate were you at the time?

JUDGE ROBERTS: I started at Covington four years out of law school after having spent four years at Justice, so I was I guess a fourth, fifth, and sixth-year associate during my three years at Covington. I believe I was working with, on some of those matters, I was working with Bruce Kuhlik, who later became the FDA Commissioner, and I think he later went on to even further government service before private work that followed that. Sometimes you never know what different people you're working with in your junior stages will end up doing.

MS. COLES: Was he an associate with you as well?

JUDGE ROBERTS: He was an associate, and I think he probably started a little bit after I started, but I think he started not as a fourth-year, probably as a second-year maybe. He might have had a clerkship. I can't remember exactly, but I think seniority-wise within the firm, I was a little bit ahead of him. But then in leaps and bounds, I don't remember if he became a partner, but he quickly became quite an expert in the FDA area, food and drug area, and became the FDA Commissioner. That was one of the interesting experiences I had working with him. Quite a bright fellow.

So that Orflex litigation, it was a non-steroidal anti-inflammatory drug. I got to learn some of the vocabulary, NSAID. They were just throwing around some of these acronyms as if I was supposed to know them, and I didn't, but I picked up some of them.

So those were some of the kinds of things I was doing in the litigation part of my civil work at Covington. I got a couple of other smaller matters, but those are the more significant ones, aside from some of the pro bono projects I think I told you about earlier.

MS. COLES: What made you decide to bring your time at the firm to an end?

JUDGE ROBERTS: I think I had enjoyed learning about civil litigation, being able to practice under the Federal Rules of Civil Procedure. I had never cracked at all while I was working at Justice, and I think the last time I paid much attention to them was probably as a student in civil procedure in my first year of law school when Justice Ginsburg was then Professor Ginsburg. But I realized having spent four years doing essentially criminal work and

then three years doing civil litigation that I really could not spend too much time away from criminal work. My passion and strong feelings for practice really did reside in the criminal arena, and while I had a very good experience at Covington, that great work, got good exposure to civil litigation, I realized that my heart really was in criminal work.

MS. COLES: Did you have the opportunity to see the inside of a courtroom while you were at the firm?

JUDGE ROBERTS: I think most of what I did in litigation was not in a courtroom, so no, I did not accompany anyone to a courtroom. Of course I likely would not have been standing up and speaking since clients paying big dollars want to see partners doing that, but one opportunity you would have would be to go into a court and watch the partner do what had to be done. I do think I was able to accompany a partner in connection with a deposition, so I was able to observe a deposition. I think I might have been able to take or defend a deposition as well in the Nutri-System case that settled. Almost. But no. Going to court I had no other opportunity to do that.

MS. COLES: Did you miss that?

JUDGE ROBERTS: I sort of did, but in civil litigation, even after I got on the bench, in civil litigation, 95 or more percent of civil cases settle. They don't go through the full-range of jury selection, trial and post-trial motions. So I thought not to expect that I'd end up in federal court or even state court arguing or examining or doing things of that nature in a civil case. So it was not an unexpected disappointment necessarily. It was more in line with what one

could expect. Criminal litigation really was the fire burning in the pit of my belly, and I thought I should follow my passions.

I was also intent upon following my initial determination to spend only a small amount of time in D.C. before I went back to the center of the universe, New York City. Although, as I think I told you, it took me almost seven years to get back to New York before I did, but at the time after I finished working at Covington, I had a convergence of my desire to get back to New York with an opportunity to do it with my desire to get back to criminal work.

MS. COLES: So what was the next step you took on your journey?

JUDGE ROBERTS: I went from Covington to the U.S. Attorney's Office in the Southern District of New York.

MS. COLES: How did you make it that way? Was it just an open vacancy you saw?

JUDGE ROBERTS: That's a good question. I don't know if it was vacancy-dependent or whether it was just intention-dependent. I think I had intended to go back to New York. I knew I wanted to get back into criminal practice. I believe I interviewed both in the Eastern District of New York and Southern District of New York. I don't remember and don't think I interviewed in New Jersey, but the Eastern District and Southern District by statute could have its assistants and its U.S. attorneys live outside of those districts with a 25-mile radius, so given how hard it is and was back then to know what your housing was going to be, I thought it wisest to look at Southern District and Eastern District. Certainly it would have

gotten me back home in the sense I'd be back in New York, than interviewing in New Jersey, which would have required me to live in New Jersey. As it turned out, though, when I got the offer from the Southern District of New York and accepted it, my next step was where am I going to live. I ended up living in Englewood, New Jersey. I found housing to my liking there and ended up commuting from Englewood, New Jersey, down to the Southern District of New York at 1 St. Andrews Plaza for a whole year initially. Much to the chagrin of some friends who thought I'd lost my mind, I commuted much of that time, only in good weather, on a motorcycle. I had a GS450 Suzuki that I rode to and from work in the Southern District, in good weather only, and across the George Washington bridge and down the FDR drive, 18 miles each way.

MS. COLES: Do you recall, and I'm sure you do, who was the U.S. Attorney when you joined the Southern District?

JUDGE ROBERTS: The U.S. Attorney at the time was a gentleman named Rudolph W. Giuliani. Interestingly, it was not the first time that I would have been something of a subordinate of his. When I worked at the Justice Department, he was the number three person, the Associate Attorney General. It was at a time when the Criminal Section had to have many of its indictments approved by the Associate Attorney General before we could proceed with them. It had always been a bit dicey to propose to indict or seek an indictment against a police officer for acts of either police brutality or acts of willful violation of civil rights of victims. At

that time, interestingly, Rudy's judgment seemed to be quite even-keeled. We had no difficulties with persuading Rudy, when he was Associate Attorney General, that those cases that we had carefully picked in the Criminal Section, hopefully to survive scrutiny, were worthwhile going forward with. He for the most part approved those requests to seek an indictment in police brutality cases as well as some of the racially motivated violence cases that might have been somewhat suspect. I don't mean somewhat suspect, that might have been somewhat controversial.

When I got to the Southern District of New York, Rudolph Giuliani was the U.S. Attorney. My only experience with him before that had been when he was Associate Attorney General, and my experience with him while I was in the Southern District of New York was that he was a reasonably good U.S. Attorney. He made, at the time, reasonably good judgments we thought in pursuing particularly white-collar cases. My initial assignments were mostly in the General Crimes unit for the first year, and most of those were, you know, you have to sort of prove your worth and take some of the low-level drug cases and investigate those, indict those, try them and get some notches on your belt. Not that that's what I was trying to do. I was trying to do justice and be fair. But once we did our rotation through general crimes narcotics cases, weapons cases and things like that, we got a chance to look to do other things. But Rudy Giuliani was the U.S. Attorney when I got there in 1986.

MS. COLES: How long was your first rotation?

JUDGE ROBERTS: I was in the General Crimes unit in downtown Manhattan at headquarters at 1 St. Andrews Plaza for a year. During that year, I carried a regular docket, a caseload of cases of the type I told you about. We were a relatively compact unit of about eleven or twelve lawyers and one or two supervisors. We were very cooperative with each other. Occasionally, if someone had to go and do a lengthy trial or someone else had to rotate up for three months in White Plains at the branch office, they still had a docket downtown that had to be tended to, so we would cooperate with each other. And if someone went off to White Plains, we would say don't worry about it. We'll take care of your docket. I mention that in part because a colleague of mine at the time, Adam Hoffinger, who is now a partner at a firm here in D.C., reminds me that when he had to do his rotation, I volunteered to take over his docket, and he reminds me that he said to me at the time, I really appreciate it, but there shouldn't be too much problem. I don't think these cases are going to blow up or take a lot of your time, and he reminds me that at least three, four or five of the cases he had on his docket ended up not pleading out, not pleading guilty. I had to take them to trial, or I had to take them through motions hearings. There were a lot of pre-trial motions filed by the defense, and I was the one who had to draft the oppositions to them and argue them in front of some judge. So his three months rotation ended in the White Plains branch office and he came back to take over his docket, and he reminds me of a lot of the heavy lifting required of his docket that I had done for

him. He came back to a scene where he could sort of pick it up and cruise forward.

MS. COLES: It seems like he timed that well.

JUDGE ROBERTS: He tells me if I wanted to kid him about timing it strategically, I could probably succeed in doing that. I don't think I've kidded him too hard about it, but it's really an example of how collegial those eleven lawyers were in cooperating with each other in times when that was necessary. I'm sure that at times when I may have been at trial and it may have conflicted with some argument I was required to do in front of some other judge in a motions hearing, somebody else picked up my arguments for me and argued for me.

I think when I chatted with some of those colleagues, we had a reunion recently, a couple years ago in New York, what they remember more than standing in for me in some of my cases was how I seemed to be organized. I don't know how I pulled that wool over their eyes, but they often talked about these checklists that I designed and kept with me on various issues that sort of kept me organized. For example, if we ever had to go in front of a judge to take a guilty plea, Rule 11 of the Federal Rules of Criminal Procedure prescribes what has to happen during the course of a guilty plea. For example, a judge has to make sure that a defendant acknowledges that she or he is entering this guilty plea knowingly and intelligently, and a judge has to go through a whole allocution to assure herself or himself that the defendant is knowingly and voluntarily and

intelligently entering into that plea. There are different parts of Rule 11 that set forth what will have to happen. The facts that would be proven had the case gone to trial have to be set forth generally by the government and acknowledged by the defendant as another part of Rule 11 that goes through all of that. So what I did was make my own little Rule 11 checklist that set forth everything that's supposed to happen to comply with Rule 11, and there's a little space for a checkmark, beside each part of the rule, and when you're doing your Rule 11 guilty plea, if each of the requirements is set and met during the Rule 11 proceeding, I just put a checkmark beside that part of the rule. If any of the things had been missed, you had an opportunity at the end of the guilty plea to say something like would your honor care to make sure that the defendant is satisfied with the representation that she or he has received from his lawyer. Part of Rule 11 at least at that time required the judge to make sure that it's on the record that the defendant was satisfied with the representation that the defendant had been getting so far from the lawyer. So these were little ways I think even the judges appreciated when we'd speak up like that at the end of a plea. It would protect the record on appeal, or more importantly, would be fair and just to the defendant, because if a defendant was not getting good representation, if someone was really not doing for a client what that lawyer should have been doing, then we want to stop the plea and let the defendant go back, get whatever advice from the lawyer the defendant should be getting before letting a

plea go forward. It could be that there was some defense that was ignored, or it could be that a client just said yes because the client thought that was what the client was supposed to say, and under no circumstance would I want to go forward as government attorney taking a plea like that.

And then there were rules governing sentencings, what has to happen in a sentencing. The government is supposed to get a chance to allocute. The defense is supposed to get a chance to allocute. The defendant is supposed to get a chance to say something if the defendant wants to say something. The other things that are required under the sentencing Rule 32. So I had my own little checklist. I handed the checklist out, and I'd usually photocopy it, so I'd have a whole stack of them available whenever I had to go to a plea or go to a sentencing. And when some of my colleagues saw those checklists, they said can you give me one of those? I think I need to take that to a plea. So somehow these got photocopied all around the section. Everybody got copies of my little, they called them RWR checklists because I'd write RWR in the upper right-hand corner of each of those checklists. That's my initials. And so these RWR checklists just started floating all over the section. I think my colleagues stated, one of their fondest memories was that I was presumably organized. I really did it in part because, gee, I'm not going to remember everything that's supposed to happen so I want to make sure I can check it against my checklist.

MS. COLES: Did your colleagues do other trials, did you guys all have a similar level of experience as prosecutors or as attorneys?

JUDGE ROBERTS: Good question. I think more of them came from firms and brought with them firm experience than prior prosecution experience. I brought, obviously, four years of prosecution, investigation, prosecution experience, three years of civil litigation experience. I might have been a couple of years older by average, but I'd have to go back and do a statistical check. But most of them, I think, had come from firms, not from main Justice, not from other U.S. Attorney's offices, and not from local district attorney's offices, if I remember correctly.

MS. COLES: But all of you were new to the U.S. Attorney's office at that time? It was like an entering class?

JUDGE ROBERTS: Correct. We bonded like an entering class, and we have reunions like an entering class.

MS. COLES: Another question I had was the types of cases that you were prosecuting in the Southern District were very different from the types of cases you had prosecuted in the civil rights division. How would you compare those experiences?

JUDGE ROBERTS: Well, the cases prosecuted in the General Crimes section in the Southern District more often than not involve narcotics or guns, things of that nature. The narcotics charges at that time, if you remember, brought very harsh penalties. They were in part a product of legislation connected with the war on drugs.

The cases that we brought principally were narcotics cases. The narcotics penalties came about during the big push federally in the war on drugs. I took a job, part of taking the job, was taking what assignments you were given. I was given assignments that involved these narcotics cases. You don't take a job and say yeah, but I'm not going to do what you give me. So I had to do those. You asked me how did they compare. These were not the kinds of things, however, that carried with them a passion in my belly. I saw all too often people of color who were the defendants in these narcotics cases. In some cases, they were pretty violent crew leaders who warranted prosecution. In other cases, they were very low-level street dealers whom DEA or other agents would target for repeat small buys, and the quantity of drugs determined the stiffness of your sentence. So at the time, for example, when crack was a major problem, if you had anything under 5 grams of crack, that led to much more lenient sentencing, zero to 20 years max statutorily. If you add those grams to another amount, it led to a bigger category of sentencing, and then if you had above 50 grams and so on, the sentencing would get much more stiff, and we had the sentencing guidelines that went into effect, and they were very much linked to the quantity of drugs overall. So you had agents with an incentive to not stop with one purchase of a half a gram of crack. They'd go back and buy yet another gram and then a fifth stop that'll add up so that the punishment that the defendant could face would

be essentially worthwhile for statistics. Those were not what motivated me to continue in prosecution.

We also had other cases that were credit card fraud cases, often low-level operators, not major operators, but that offered a little bit of a respite from having to see, you know, a continuing flow of young people of color getting caught up in selling street-level drug quantities when they often had less opportunity to get gainful employment. They came from neighborhoods of families that were broken anyway. They were doing nothing but mirroring what they saw in their own neighborhoods, where others who were not advantaged did what they could to hustle and so on.

So those were the kinds of cases that we did at the entry level of the General Crimes unit.

MS. COLES: Did that create internal conflicts for you?

JUDGE ROBERTS: Well it did to the extent that I didn't go into law school to prosecute low-level drug deals. I went to law school to become a criminal defense lawyer. So I went to law school essentially hoping to be those who represented those low-level street dealers whose lives sometimes took turns that were unfortunate. So it, to the extent that it conflicted with my aim of going to law school in the first place, yes. But you know when you decide you're going to take a job, nobody forced you to take that job, and you're given some assignments to carry out, you carry them out.

MS. COLES: Do you think that your perspective affected or impacted in any way how you performed as a prosecutor for better or for worse?

JUDGE ROBERTS: Yes. And I think that was inevitable. One thing prosecutors did have and do have is the ability to exercise some prosecutorial discretion. There are cases that will be coming in from law enforcement agents where you have to make a decision I'm going to move this case forward or I'm not. Now there were some cases where you will dig a little more deeply into what actually did happen. You may dig a little more deeply to see if the evidence that was recovered allegedly by the agent was a product of a Fourth Amendment violation or was a product of a search that was not preceded by reasonable suspicion or probable cause or might have been some, in the worst-case scenario some evidence, that was planted by someone. I'm not suggesting that was always the case, but you were prompted to dig a little bit. I was prompted to dig a little more deeply than others who might have just assumed the integrity and propriety of some arrest. Did it always result in my deciding not to bring a case? No. But it did usually result in my having to be satisfied that this is a worthy case that should go forward because I was digging as deeply as I thought justice required that I dig before just accepting the word of an agent or an officer before going forward with a case. And indeed there were some cases where I saw some problems, and I'd tell my supervisor this case should not go forward, and I'd make my case with the supervisor. Sometimes I'd prevail, sometimes not. But I felt my obligation was to justice with a small "j" and fairness in doing the right thing rather than to an entity, Department of Justice with a big "J." I wasn't there to put

notches on my belt. I was there to be fair and to be just and to try to do the right thing. So yes. I do think that my perspective had some impact on the job that I did.

MS. COLES: After you finished with General Crimes, what was the next step?

JUDGE ROBERTS: The next step was probably the most fun I had in the Southern District of New York. The next step was my turn to do the three-month rotation as a special assistant U.S. attorney. No it wasn't "special." It was a full-fledged assistant U.S. attorney, but assigned to the branch office in White Plains, New York. The Southern District of New York had jurisdiction in matters arising in Manhattan, the Bronx, Westchester, Putnam County, and I think at the time a couple of other counties, possibly Sullivan County and maybe Dutchess County. I think those counties have been distributed slightly differently today, but at that time, the White Plains branch office took care of cases that were generated in the counties that were north of the Bronx that were part of the Southern District of New York. The White Plains branch office was located in a former IBM building where the Department of Justice had purchased space to house two or three federal district judges and a magistrate judge, so it was also a courthouse. In any event, the head of the White Plains branch office at the time was Michael Tabak. He was a veteran assistant U.S. attorney in the Southern District of New York and had quite a bit of experience throughout the Southern District of New York in a wide range of cases. When I got up there, we had one other assistant U.S. attorney. I was the rotator, so I was

sort of the temporary one, and Michael Tabak, who were assigned as the prosecutors for that office. Eventually, after my three-month rotation ended, the head of the office, Michael Tabak, asked me what would it take for me to convince you to stay up here full time and not go back downtown. I told him at that time, well, if you can promise me that I will not have to take on any more drug cases and that the cases that I get will be in the public corruption and white collar area, I'm yours. He said it's a done deal. You can work off the rest of your drug cases, and the new cases that I assign to you will not be any more drug cases. They'll be all white collar and commercial transactions and things of that nature. So we made that deal, and the next rotator that came up is the one that got those drug cases, and I was able to get other cases that really allowed that fire in my belly to burn. I got some white-collar cases up there. For example, there was a former judge in one of the upstate counties who had also run a real estate title company. What happened was he was engaged in embezzling about \$2 million from his clients of the real estate title company, and the FBI investigated that, and following some fairly intensive negotiations, we were able to get him to agree to plead guilty to fraud, and he was sentenced to prison during that time.

MS. COLES: Was this a state or a federal judge?

JUDGE ROBERTS: This was a state judge who was a trial-level judge. Upstate, in the New York State system, they have a lot of different levels of judges, county judges, town court judges, and so on. So he occupied one of those state-

level judgeships in a small jurisdiction in a county upstate. But that was the kind of case that I had quite a taste for, white-collar infractions that otherwise might have been ignored or not pursued quite with the vigor that some of the investigative agencies pursue, let's say drug cases or gun cases, with.

We had another white collar fraud investigation involving an owner of a resort in the Catskill Mountains who ended up taking in hundreds of thousands of dollars more in revenue at his resort than he reported on his tax returns, so we had a tax fraud investigation. It was a little bit unfortunate because I, should say it was a little sad, because the guy was in his upper 70s when he was still cheating on his taxes, running this resort, taking in all kinds of revenue, some of it in cash, but a lot of it not reported on his tax returns, and he lived almost as a miser. He hoarded this money, didn't spend it on expensive cars or expensive clothes. If I remember correctly, he may have wanted to set aside some of his money to build up trusts for his children or his grandchildren, but you would never think that he had all this money based on the way he dressed or the fairly spartan living circumstance he had. But he had a lively business, made lots of money, and cheated on his taxes. And he, to the last minute, resisted any notion of saying he did anything wrong. He was actually an immigrant, as I recall. His name was Louis Slomowitz, if I remember correctly. But finally I think his lawyer persuaded him, not to quote John Dowd, who was in the news recently when he counseled his client, former

client, it's either do what I recommend or you wear an orange jumpsuit. So I think Slomowitz's lawyer finally persuaded him it's much, much better to take a guilty plea in negotiations that we can do with the U.S. Attorney's Office than to try to fight this and try to prove that you did not commit tax fraud when you took in all this money and didn't report it.

But anyway, those were the kinds I was fed. Those were the kinds of cases I was able to pursue during the additional two years or so that I stayed in the Southern District working out of White Plains. Other assistants might have thought why would you agree to work way up there in the boondocks when you could've been down here in the Southern District, right there in Wall Street where all the headlines are generated and all these drug cases are prosecuted and most of the papers and TV are paying attention to stuff down here, and frankly my answer was I was not interested in trying to get headlines. I was not interested in trying to become the next U.S. Attorney. That was not a fire burning in my belly.

MS. COLES: Were you riding your motorcycle from Englewood up to White Plains?

JUDGE ROBERTS: The answer to that in that twenty-eight-mile drive was no. What happened was the office owned a car. It was a GSA car, and the office owned that car and used it so that the person who was assigned up to White Plains could use that office car to get to and from work since it was something of an unusual commute, and the others who were in White Plains office lived up there. I lived 28 miles away in Englewood, New Jersey, and I don't know if I had to go up to Rudy or the head of the criminal division, but

they said let him continue to use the office car for that commute because the head of the office wanted him there. He agreed to stay up there. We don't have to continue to send rotators up there as long as he's there, so let him hold onto the car.

MS. COLES: So how long did you end up staying?

JUDGE ROBERTS: The rest of my term, which I guess was about two years. I did one year downtown, and the rest of the time up in White Plains, 24 months, something close to that.

MS. COLES: What made your time in that office come to an end?

JUDGE ROBERTS: Love. My timing is not always what it should be. When I left Washington to come back home to New York, as it turns out I started dating a woman in Washington who was a lawyer, and we had this commuter relationship. So by the time 1988 came around, and I was in White Plains working there, our relationship had flourished. I remember visiting her one weekend, Valentine's Day weekend, February 14<sup>th</sup>, 1988, visiting her here in Washington, and she thought it a little odd that I was wearing a jacket and a tie, because I usually was wearing sort of relaxed clothing. But I confronted her, confronted her is the wrong word, confronted her. I walked into her dining room when she was at her dining room table wearing this sports coat and a tie, and she looked up at me somewhat quizzically, and I got down on my knee and pulled out this ring and asked her to marry me. She said I can't believe it. I can't believe it. I can't believe it. And I'm sitting there waiting for an answer, and I said

well can you like give me an answer, and she said yes. So we got engaged on Valentine's Day 1988.

MS. COLES: What was her name?

JUDGE ROBERTS: Her name is Vonya McCann. She was a partner at Arent Fox law firm here in D.C., heavily involved in the telecom work, which was very much FCC – Federal Communications Commission-oriented – and many of her clients needed her to appear at the FCC. So she had a practice that was very D.C.-oriented. My criminal prosecution practice by comparison was fairly portable, so at some point somebody had to agree to move, and I had been in D.C. for so long and gotten to know D.C. so well and really fell in love with D.C. D.C., compared to New York was far more manageably sized. It was far more environmentally friendly, much cleaner air. There was just something about DC that grew on me that gave me no pause whatsoever when somebody had to agree to move, and my hand shot up in the air very quickly, and I said no problem, I'll move back. Of course I'd have to find a job, but I thought there would be enough options for me to do my kind of work more than for her in New York to do her kind of work. So I didn't hesitate one moment after she said yes to commit myself to looking to see what I could do back down in the D.C. area.

So I guess the good news for me was because we agreed to get married in DC, that really did leave most of the work on her shoulders to figure out where would we get married, all the arrangements for invitations and getting the invite list and hiring musicians and getting the

right caterer and all those things. She had to do all that. She ended up doing all that, I guess in exchange for my agreeing to move. I think that's a fair deal, hopefully. I ended up getting the presiding person because I had been at Harvard Law School's Trial Advocacy workshop many times by invitation of Charles Ogletree, who was running the workshop. We actually had met again when he was in D.C., and he was the deputy director of the Public Defender Service, and we ran into each other on a number of occasions while I was a prosecutor and he was a defense counsel, and even after I went into private practice at Covington and Burling. When he left the Public Defender Service here, he moved up to take a faculty position at Harvard and took over the Trial Advocacy workshop and invited guest faculty members to come up, and he invited me from 1984 and I continued to go up for nigh on these 32 years as a guest faculty with the Trial Advocacy workshop at Harvard. In any event, one of the guest faculty that came up from D.C. was a fellow named Ted Newman, who happens to be on the D.C. Court of Appeals. I'm trying to remember chronologically if he was at time chief judge. He ended up becoming chief judge of the D.C. Court of Appeals. We struck up a friendship at that point, or enough of a friendship that I could feel not reluctant to go to him after we got engaged and asked if he would be kind enough to preside over my wedding, and he did. So Vonya and I got married on 10-8-88, October 8, 1988, and our wedding rings are inscribed with that date on the inside. Mine has VBM and a heart followed by

RWR, meaning Vonya loves Ricky. Hers has RWR and a heart followed by VBM, and so that meant Richard Roberts loves Vonya McCann.

MS. COLES: So you guys are coming up on thirty years.

JUDGE ROBERTS: Our 30<sup>th</sup> anniversary will come up in October 2018, and we've just booked our 30<sup>th</sup> anniversary get-away. Our honeymoon was in Barbados. It was in Barbados because we had booked it in Jamaica, but a hurricane hit Jamaica, and at the last minute, we had to switch venues. The resort where we were planning to spend our honeymoon experienced lots of property damage, so at the last minute we were able to go over to Barbados because we are both Caribbean freaks. So we ended up booking someplace this year for our 30<sup>th</sup> anniversary in the Bahamas.

MS. COLES: Wonderful. All right, we're going to pause here. Thank you, Judge.

JUDGE ROBERTS: Okay.