

IN COMPLETE OPENNESS AND TRANSPARENCY OF PURPOSE

I have a vivid recollection of an unforgettable day in 1975. I had just opened an envelope from the chambers of Judge William J. Holloway, Jr., and read his letter hiring me to serve as his law clerk for the one year term beginning July 1976–1977.* At the time, I was a twenty-four year old law student about to begin my final year at Harvard Law School—Judge Holloway’s alma mater.

I recall counting the days until the coming Sunday night when reduced long distance telephone rates would permit me to call home to Oklahoma and share with my father the great news of my good fortune and sense of accomplishment.

When Sunday night arrived, I recall explaining at some length to my father—the Reverend Robert H. Alexander, Sr.—about the extremely impressive nature of Judge Holloway’s background, the hierarchical structure and nature of the federal judicial system, the importance of “my judge” within that system and, by implication, my greatly exaggerated sense of importance within that legal system.

My father listened to my discourse without interruption, as was his practice, then succinctly responded, saying: “I see, Son. You will have the privilege of serving a judge of judges.”

During the next year and over the thirty-eight years which followed, I was privileged to witness that my father’s words were not so much a description of Judge Holloway’s place within the legal system; rather

* I returned home to Oklahoma in 1976 after graduating from Harvard Law School at a time when young African Americans generally had to be from Oklahoma to want to return there. I therefore returned with the resolve to build on the legacy which my late father, Rev. Robert H. Alexander, Sr., and other civil rights giants in Oklahoma had created for young people of my generation. I was further determined to accomplish in Oklahoma whatever it was at that time assumed that a Black man could not accomplish. After clerking for Judge Holloway and ultimately becoming the first African American partner in a major Oklahoma law firm, I formed my own law firm, now specializing in defending Fortune 200 product manufacturers in lawsuits brought against them throughout the United States.

they were a description of the judge himself. My wise father had captured in one sentence the very essence of Judge Holloway. The Honorable William J. Holloway, Jr., was indeed “a judge of judges.”

Yes, Judge Holloway possessed a brilliant legal mind. One could write at length about Judge Holloway’s acumen. Yet doing so without further context would serve only to laud Judge Holloway with merely faint praise; because lawyers with piercing intellect are plentiful, but not every brilliant lawyer also inspires tribute and love. Judge Holloway is distinguished and beloved in that sense because his brilliant intellect was informed and tempered by a genuine sense of humility, a love of mercy, and a reverence for justice.

Judge Holloway’s humility would not allow him to ever consider exalting his intellect, position, and privilege over others. Instead, I witnessed how he unfailingly respected and served others, regardless of station or rank. Within weeks of beginning my tenure as his law clerk in 1976—a time in Oklahoma when the word “colored” was still visible beneath a thin coat of covering paint on the doors of the County Courthouse restrooms—I observed how patiently and compassionately Judge helped a Black woman lost on the 5th floor of the federal courthouse who was trying to get to the Oklahoma County District Court.

Judge took the lady into his chambers and attempted to point to her the desired landmark. Remaining unconvinced as to whether the lady understood his directions, I observed Judge take the elevator with the woman down to his reserved parking space in the basement and drive her to her desired destination—all the time conveying the selfless attitude that the lady was to be thanked for permitting Judge to be of service to her.

When my fellow law clerks Don Karl and Nelson Berry and I would walk to lunch with Judge at The Anna Maude Cafeteria, owned by his high school friend Cooper Lyon, it seemed we could never travel more than a few feet down Robinson Avenue before Judge was pleasantly returning by name the greeting of seemingly every passerby he encountered. But what I remember most about those walks, and what typified Judge, was his patient and very respectful greeting of an elderly woman who addressed Judge as “Billy” and as it turns out had been his grade school teacher. Each of her sentences was responded to by Judge with a respectful “Yes, Ma’am,” which he genuinely seemed to delight in affectionately bestowing upon her.

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It has been said that mercy is a quality animated by empathy and compassion. I experienced Judge's empathy and compassion when my father passed away only one month into my clerkship. I had worked that Saturday morning with Judge, and then gone to the hospital to see my father who had been hospitalized the previous evening after suffering a heart attack. Daddy passed away mid-afternoon, and I returned to tell Judge the news shortly before he left his Chambers at 5:00 p.m. I will always remember Judge's kindness in permitting me to use the office phone to call distant relatives that day; and being surprised when Judge prepared one of his special chili-cheese dogs and served it to me while I was on the telephone.

Later that evening, Judge visited my mother and comfortably mingled among and introduced himself to gathering mourners as Bill Holloway. Listening with empathy to the conversations of strangers around him, Judge correctly perceived concern about identifying a church with a sanctuary large enough to accommodate the expected number of attendees at my father's funeral service, because my father was a pastor and civil rights leader in Oklahoma. Judge interceded with his own pastor and my father's funeral was held in the spacious and beautiful sanctuary of Oklahoma City's St. Luke's United Methodist Church.

When I attempted to thank Judge on my family's behalf, Judge deflected my efforts and disclaimed any involvement, saying: "Oh, they were happy to do that." Such events are of course very personal to me. Yet they are remarkable in that they are typical among any of Judge's eighty former law clerks. Such recounted events are just reflective of the man himself. It was who Judge was.

Judge Holloway had a reverence for justice which focused solely on complete openness and transparency of purpose. He advocated that judicial pronouncements "should never be shielded from searching examination" and "must be able to withstand the scrutiny of analysis, against the record evidence, as to its soundness under the Constitution and the statutory and decisional law we must follow, and as to its consistency with our precedents." *Re Rules of the United States Court of Appeals for the Tenth Circuit, Adopted November 18, 1986*, 955 F.2d 36 (10th Cir. 1986) (Holloway, C. J., dissenting from the enactment of 10th Cir. Rule 36.3 which provided in part that "unpublished opinions and orders and judgments of this court have no precedential value and shall not be cited by any other court within the Tenth Circuit . . ."). This was

a view since vindicated by the Tenth Circuit's withdrawal of 10th Cir. Rule 36.3.

Judge's reverence for justice was always guided by the facts and the law, uninfluenced by the status or manner of a party's advocate. I recall Judge presiding as a single judge in-chambers over a Saturday morning hearing seeking emergency relief in a criminal case—a rare occurrence. Judge who was dressed that day in slacks and a red knit shirt—his usual Saturday concession to an OU game day—opened the door to the courthouse for one of the attorneys who was from out of town and did not know Judge. The out of town attorney berated Judge for not opening the door sooner—mistakenly believing that Judge was a building custodian.

Imagine the out of town lawyer's surprise when shortly thereafter he saw the man he had just berated, now sitting in his robe in chambers awaiting argument. Yet, Judge gave no inkling whatsoever of any different attitude toward either the advocates or their arguments during or after the hearing. During his deliberations, Judge evenhandedly discussed with me all aspects of the issues under consideration and then ruled dispassionately accordingly to law.

Some weeks later, after I learned about the “front door encounter” from another source, I asked Judge about the rudeness of the out of town counsel. Judge demurred: “Oh, Bob, I can't really recall. There might have been a simple misunderstanding.” Judge would not permit matters of ego to affect his sworn calling: honestly ascertaining the facts and fairly applying the law.

As I observed in later cases, however, Judge's being uninfluenced by the stature or personalities of the advocates in a case is not to say that he was unmindful of the humanity of the parties in a case. Before Judge released any of his opinions, he always inquired of himself whether the parties would perceive that they had been heard fully, treated with respect, and had received justice—irrespective of the decision. This was a point brought home to me by Judge's work in *United States of America v. Bert Glen Munz*, 542 F.2d 1382 (10th Cir. 1976).

Munz was the appeal following retrial of an armed bank robber with an undisputed, over thirty-year history of mental illness including schizophrenia and audio hallucinations, whose insanity defense was that he was compelled by “highly educated, demanding voices” to “rob the bank to get the money to buy some dynamite” or “[t]hey would destroy me.” *Id.* at 1386.

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Mr. Munz was a documented borderline “moron” (Mr. Munz’s “clinical diagnosis was antisocial personality; mental deficiency, primary, full scale IQ 71 . . . 70 or below classifying one as a moron.” *Id.* at 1385.). Mr. Munz testified that the detonation of explosives gave him a sort of erotic gratification. This was a connection Munz first experienced during combat in Guam in the Second World War when he came under enemy fire; it was later documented during court martial proceedings how he “broke into an ammunition depot, stole grenades and other ammunition, stole a jeep and went to a remote part of the island where he spent three days, setting off numerous explosions.” *Id.* at 1385 (The court martial proceedings against Mr. Munz had been dismissed following his hospitalization in a psychiatric institution in Maryland where “he received electric shock treatments seventeen times, returned to duty and received an honorable discharge.”).

My initial workup of the case involved much private tittering as to its unusual facts. In contrast, as Judge prepared his opinion, he set the proper tone by displaying to me only seriousness and empathy for the tragic situation of a war veteran who was undisputedly mentally ill, yet not legally insane at the time of his crime under the applicable legal standard and controlling standard of appellate review. Judge’s dignified treatment of the facts in Mr. Munz’s appeal was a lesson to all that the proper administration of justice also requires treating the people who seek justice with dignity and respect.

Judge’s beloved daughter Gentry caused the law clerk family to be notified and summoned to his bedside at his and his beloved wife Helen’s home when the time approached that Judge would finally go the way of all flesh. Some of us were fortunate enough to be able to avail ourselves of the cherished privilege to be in Judge’s presence near the end—read the Bible to him, or even kiss him, something our awe of him would not have allowed in other circumstances.

As the hour of Judge’s physical departure approached, he softly repeated, again and again a passage from the Bible, *Micah* 6:8:

“And what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?”

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This man whom we loved and were privileged to call “Judge” was truly a “judge of judges.” He ruled justly, loved mercy, and walked humbly with his God. His precious memory will be with us always.

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