

INTRODUCTION

*To fail to teach about Bill Holloway
would be to fail to utilize his example and that would be tragic.
The Judge's life was too interesting and too remarkable
to ever let that happen*

Robert H. Henry
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Judge, Tenth Circuit Court of Appeals, 1994–2010

I spoke those words on September 13, 1995, when I introduced Judge Holloway at the Holloway American Inn of Court. I did not know at that point that I would later introduce this tribute from the vantage point I now hold. I asked the Oklahoma City University Law Review to prepare this tribute in honor of my friend and mentor, Judge William Judson Holloway, Jr., because I knew that those sentiments are even truer today. Here, one year from his passing, we aim to help the community reflect upon the example that Judge Holloway provided to us. I invite—indeed implore—every law student, every member of the bench and bar, and every legal educator to carefully study the patterns that unfold in this tribute as a guide to us all and to harness the strength of his sterling example of a life well lived. My hope is that this very special edition of our Law Review provides an invaluable opportunity for our readers to benefit from the Judge's beacon of light. And so, dear reader, with that, I give you the lessons of a man who certainly requires no introduction, but whose example assuredly deserves our careful remembrances.

One evening, about 7:00 p.m., I was struggling as a new circuit judge, trying to get some elusive opinion finished. My legendary colleague, who had arrived at his adjacent office early that morning, was, in fact, heading home with his coat and hat on, as he looked in on me. But sensing I was exhausted, his remarkable kindness gave way to a little joke. With all seriousness, clerks in tow, he said, "Judge, we're going out

to grab a sandwich before we come back to finish up. Anything we can get you?" Although Bill Holloway was indeed going home that eve, the joke was funny because it was no secret that Judge Holloway was passionate in his work. Even as a senior judge, Bill came in every Saturday to work, and usually made sandwiches for his clerks.

After thinking about my friend Bill Holloway after his memorial, I called Dean Couch and proposed that a tribute edition of our law review be dedicated to him. She and the Law Review graciously agreed, and the reflections that follow in the tributes are brief glimpses into, and powerful representations of, countless more lives and souls that he impacted. Our tribute edition to this mythically hard-working jurist begins with the homily that was given so beautifully one year ago at a memorial service at St. Luke's United Methodist Church in celebration of Judge Holloway's life and work. Following that homily, please read the moving words of his nephew, United States Supreme Court Justice Ginsburg opens our personal-tribute section by extolling Judge Holloway's well-written and well-reasoned opinions, and his inspirational guidance through gentle and constant examples of courtesy and goodness. (C-Span filmed a remarkable presentation by Justice Ginsburg at the Tenth Circuit Conference. She tells the story of *Moritz v. Commissioner of Internal Revenue*, the tax case resulting in a Holloway opinion that began her remarkable work for *women's rights*. It is a must see: *Life in the Federal Judiciary*, C-SPAN (Aug. 27, 2010), <http://www.c-span.org/video/?295217-1/life-federal-judiciary>.)

More great tributes follow. I am incredibly grateful for each of the honorable and highly esteemed judges and former law clerks who took the time to share their moving homages to assist us in teaching the lessons of Judge Holloway. Learn from them all. This man who sat on over 1,000 cases has tutored and shaped the legal careers of numerous law clerks, and his lessons have proven to be immeasurably impactful. It won't take you long as you turn these pages to notice the patterns of integrity and honor that he weaved throughout his career.

Finally, we've reproduced several speeches by and proceedings about the Honorable William Judson Holloway, Jr., we've collected some memorabilia, and we've compiled a holistic look at the legacy he left us by listing his numerous court opinions and the clerks he mentored in the matters of law and life.

But before you dive in, please indulge me here a little longer . . . You'll find much of this information scattered throughout this special

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edition, and some I've shared in other venues in days gone by, to be certain, but I hope to encapsulate a few of these thoughts as they take on new meaning since neither of us serve any longer on the bench, and he has now gone before us.

I begin where most introductions end—with what you know or *ought* to know. Judge Holloway hailed from a political family. His lawyer father (who had also been a school principal, superintendent, prosecuting attorney, soldier, and state senator) was elected Lieutenant Governor of Oklahoma in 1926. In 1929, following the so-called “Ewe Lamb Rebellion” that eventually ousted Governor Henry S. Johnston, Lt. Governor Holloway found himself Governor, “sworn into” office by Chief Justice Charles Mason, who would soon confront his own impeachment. But Governor Holloway’s 22-month administration, though occurring during one of the stormiest times in Oklahoma history, was marked with stability and integrity. As the *Tulsa World* concluded, “[Gov. Holloway’s] regime was conducted with responsibility and decorum.” Oklahoma historian Dr. Maynard Hanson stated the majority view when he concluded a chapter on the Governor with this simple observation: “Unfortunately for the state, he never sought another political office.”

But one thing was clear about Governor Holloway, and that was that he considered President Lyndon Johnson’s appointment of his son to the United States Court of Appeals for the Tenth Circuit the major highlight of his remarkable life. I believe Judge Holloway’s knowledge of and respect for our political system—learned from his dad—molded his careful jurisprudence, a jurisprudence of respect for all parties before him.

But, who was this remarkable young attorney that President Johnson named to the court? Well, besides his political knowledge and pedigree, he had a phenomenal academic record. As a sophomore in high school, Bill Holloway and his colleague won the *national* debate tournament. Oklahoma was on a streak in those days—the next year the Judge and his colleague didn’t win nationals—a team from Bristow, Oklahoma, did. But the following year, as a senior, the Judge accomplished the remarkable feat of winning a *second* national debate championship. Staying at home for college, the Judge attended the University of Oklahoma for two years before service in World War II, and one year after. He received his A.B. and, not surprisingly, graduated Phi Beta Kappa.

Judge Holloway went out of state to law school, graduating from Harvard Law School, where he studied with such luminaries as Professors Henry Hart, Archibald Cox, W. Barton Leach, and Dean Erwin Griswold. His classmates included Senators Ted Stevens and John Chaffee, Governor Brendan Byrne of New Jersey, and Samuel Dash. At Harvard, Judge Holloway combined his Demosthenic oratory with his newly acquired knowledge of the law. He did not win Harvard's moot court championship—he and his partner, Jim Gibbens, came in second, defeated by Samuel Dash and Ray Elder. (Dash was later Senate counsel in the sensational Watergate investigation that toppled President Richard Nixon.)

United States Supreme Court Justice Sonia Sotomayor recently reminded us during a conversation here at Oklahoma City University that the judiciary is indeed a profession of service. Judge Holloway exemplified this sentiment. He was a servant of the court and did his very best to justly serve those who came before him. There could never have been any question, even for one moment, that Judge Holloway's only concern was to rule correctly, fairly, and with the fullest measure of compassion that the law would permit. Having held the longest seat on the Tenth Circuit—45 years, a generation and a half—Judge Holloway touched many lives and provided an example for others to follow. It is rare to find a man who has obtained his level of success and prestige who is at the same time held so dearly. I was, at one point in history, Judge Holloway's assuredly unworthy successor, and I strove to bring the same level of humility, ardor, courtesy, and passion to the profession. I did not succeed.

The Judge's courtesy and politeness were indeed legendary. I remember a term of court that Bill attended when he was much too sick to be there. Languishing from a cough and infection, he still insisted on hearing cases in Denver. In the airport heading home after an exhausting term, he had to call for a wheelchair, and I requested the honor of pushing him through the lines to the magnetometers. To my astonishment and, well, rage, the security personnel selected the wheelchair-bound 80-something-year-old federal judge for a personal search. They instructed him to get out of the wheelchair, sit down, raise his feet, submit to a pat down—they even closely checked his cane.

I couldn't believe it. This person with a federal judicial ID, obviously aged, and very obviously sick, was put through the wringer. I bit my tongue, knowing they clearly had the right to do this, as he labored to

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follow their every command. Not in the least perturbed, Judge Holloway followed each ridiculous request *with a smile*, and sincerely *thanked* his malefactors at the end of the meaningless search. He was right; I was wrong. In 16 years of close work with Judge Holloway I never heard him raise his voice, or saw him miss the opportunity to be kind to anyone who crossed his path—even baby circuit judges with dumb questions.

Judge Holloway's love for his profession was unmistakable, as evidenced through his work ethic and his desire to "get it right." The Judge usually checked his own citations, and did his own research. It was a joy for me, when perusing some volumes in our circuit library, to find the Judge's pencil-written notes in the margins. I suspect I quoted them!

I so deeply appreciated his amazing memory and recall. I could save time on Lexis and Westlaw by simply walking down the hall and asking Judge Holloway. He would immediately spout off the case names of relevant opinions and usually *the reporter volumes* as well. He would then illuminate the citation with explanation and criticism. His mnemonic brilliance was something that I deeply admired. Jim Gibbens used to say that the reason Judge Holloway was elected class officer was that he was the only person in the class who could remember everyone's name.

Judge Holloway, as noted, always came down on the side of "getting it right," even at the expense of time. By that I mean that the Judge insisted on the craftsmanship necessary to get an opinion into the shape that both he and his concept of *the justice we strove for* demanded. As noted, he did not delegate much, and so when the opinion did come out, colleagues knew he had gone over and personally checked every word. But despite even that level of care, the Judge was not overcome with pride of authorship. Judge Logan once said that Judge Holloway was one of the few judges who kept his mind open to the last minute, even to the extent of *overruling his own position in an en banc case*.

Judge Holloway served as a lodestar who teaches us what the third branch can accomplish in fealty to Magna Carta's "law of the land" which has become, of course, our "due process of law." His principled defense of his beliefs on the necessity of fairness in procedures led to testimony before Congress where the Judge had to use his debating skills in opposition even to judicial colleagues. Despite his legendary politeness, he did not eschew controversy when it was necessary, and he was one hell of a lawyer when he had to be!

I believe that Judge Holloway was *the* hardest working senior judge in America, which wasn't difficult because he was the hardest working active judge during his tenure. The Judge was a remarkable man with remarkable life experiences: testifying before Congress; speaking to other circuits; serving on the Judicial Conference of the United States; lecturing at the great law schools of this nation. In the past I admonished the eponymous Holloway American Inn of Court to listen to everything he said, for like Benjamin Franklin or Buckminster Fuller, we should have followed him around and taken down whatever he uttered. He was that great.

Well, not having the services of the National Security Agency, we did not accomplish taking it all down, but the *Oklahoma City University Law Review* hopes to memorialize his ideals in this tribute to his memory. Undoubtedly, the root of much of the highest esteem for this great jurist derives from the care and attention he afforded his clerks, colleagues, employees, and *his opinions* (themselves colleagues that communed with each other). He approached every conversation and decision with equal care and respect, because he saw great significance in each person, view, or coherent argument.

Judge Holloway's life is marked by many accomplishments—the President's Award from the Oklahoma Bar Association, the Humanitarian Award from the Oklahoma City Region of the National Conference of Christians and Jews, and an Honorary Doctor of Laws degree from Oklahoma City University, to name a few. While his success might be measurable, his true value is beyond calculation, and it transcends his own long but too brief life. The magnitude of his success ripples throughout the legal community and beyond. Lawyers, judges, and the increasingly unaware citizen alike are the beneficiaries of his tangible mark on the rule of law.

In describing the elegant (a favorite Holloway word), wise, hard-working, experienced, compassionate, and punctilious persona of Bill Holloway, I hope I have made my case that he is worthy of study. But, I am always willing to have co-counsel. So to close my argument, I turn to a great friend of Judge Holloway, and one of the legendary lawyers of Southeastern Oklahoma, the late Vester Songer, Jr., when he spoke at a ceremony honoring Bill Holloway's career a half-generation ago. Mr. Songer was chosen to represent the hometown folks of Bill's birthplace in Hugo, Oklahoma.

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I know why all of the rest of these distinguished people are here: it's because of their importance. I'm here through accident of birth. (laughter)

I didn't know really what this was all about, but I know I kept getting these letters about a conspiracy. One thing I knew, in federal court, all you have to say is "conspiracy" and you've got one. (laughter) . . .

You know, the 17th Judicial District consists of three counties, total population of 50,000 people. They have spawned Judge West, Judge Cauthron, Judge Mike Burrage, and, of course, Judge Holloway. If the entire state had done as well, we would have over 250 federal judges at this time. (laughter)

But, you know, Judge Holloway is not the only person that might have been misjudged because of the small town from which he came. In the gospel of John, we find the following:

The next day Jesus decided to leave for Galilee. Finding Philip, he said to him, "Follow me." Philip found Nathaniel and told him, "We have found the one Moses wrote about in the law and about whom the prophets also spoke. His name is Jesus of Nazareth." Nathaniel responded, "Nazareth? Can any good thing come out of there?" (laughter)

And Philip replied, "Come and see."

We came and saw. Thank you. (laughter and applause)