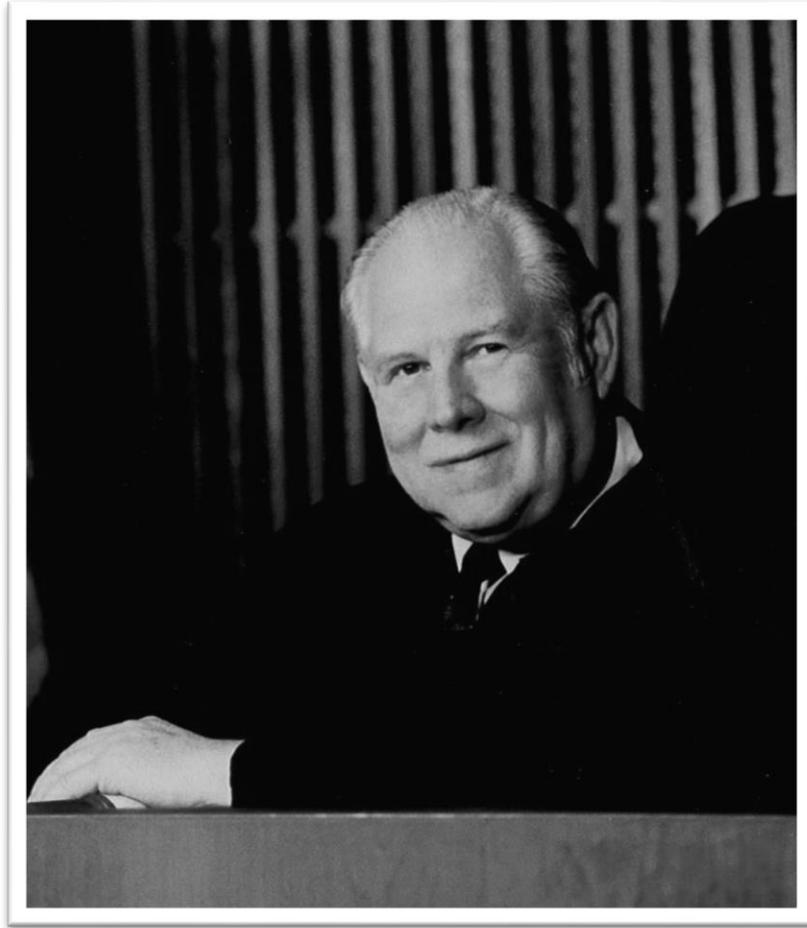


Judicial Conference
Tenth Judicial Circuit of the United States

Presentation of the Portrait
of the
HONORABLE WILLIAM J. HOLLOWAY, JR.

July 26, 1992
Tamarron Resort
Durango, Colorado

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HONORABLE WILLIAM J. HOLLOWAY, JR.

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Proceedings

JUDGE JAMES K. LOGAN: Again I have the honor of speaking for my colleagues at a portrait presentation ceremony honoring a senior status judge of our court. This year we honor William J. Holloway, Jr., who took senior status May 31 after nearly twenty-four years of service on our court.

I volunteered because of my affection and respect for this man with whom I have served for fourteen-and-a-half years and who was my chief judge for nearly half of that time. The painting we will unveil shortly will hang, along with those of our other circuit judges, in the remodeled courthouse/post office building in Denver, now scheduled for completion in January 1994.

To most of you, circuit judges are remote figures. When we put on the robe and undertake the monastic life of an intermediate appellate judge between the Supreme Court and the district courts, both much more visible to the public, we just sort of disappear from sight. Occasionally we surface to reverse the district courts; Judge Lee West says we come onto the battlefield after the war and shoot the wounded. Judge Holloway's former partner, V.P. Crowe, was quoted as saying, on the occasion of Bill Holloway's joining our bench, "I want you to know we are going to remember you as you were in life."

But two categories of people, besides his family, get to know well the circuit judge in his life after appointment—the judge's judicial colleagues and his law clerks. Drawing from these two groups I take this occasion to reveal a little about Judge Holloway.

Bill Holloway has demonstrated an amazing ability to keep his personal life out of the newspapers, both before and after he became a judge. Either he has led an exemplary life or he is a genius at cover-up. He also does not often speak of personal matters, even to his colleagues. We do know he was born in Hugo, Oklahoma, and moved to Oklahoma City sometime in his early youth, about the time his father became Oklahoma's governor. He attended the University of Oklahoma with an interruption for Army service in World War II. Bill became a first lieutenant in the infantry. After graduating from O.U. Phi Beta Kappa in 1947, he attended Harvard Law School, graduating in 1950.

Thereafter except for approximately two years' service in the United States Attorney General's office in Washington, where his boss at least

for a short time was James Browning, later Chief Judge of the Ninth Circuit, (and who is here today) Bill practiced in Oklahoma City mostly in the Crowe & Dunlevy firm until appointed in 1968 as U.S. Circuit Judge.

Oh yes, he married Helen Hoehn, and they have two children, William J. III, who has just completed a masters degree in physics at the University of Texas, and Gentry, who is pursuing graduate work in teaching at the University of Minnesota.

That is the public record—except for a host of honors after he became a judge—but it tells us little about the real Bill Holloway. Our detective work, however, dug out a few things. For one, though he moved out of Hugo, Oklahoma, apparently no later than age three, Bill has an inordinate attachment to that community; he even sometimes pretends to be a country lawyer from Hugo. One of his law clerks who had inserted citations to academic theorists in a draft opinion, and argued for their retention before the judge edited them out, said the judge would make comments like the following: “You wore me down. Now you have got me talkin’ about ‘tort regimes’ and ‘lowest cost-avoiders,’ and usin’ all kinds of words we never even heard of back in Hugo.”

Bill Holloway does not reveal how he became interested in becoming a lawyer. He doesn’t talk about the role model of his father, who was a distinguished lawyer and governor of Oklahoma and whose personality apparently was quite like that of our judicial colleague. Bill does not tell us that while in high school he was on a team that won a national debate championship in 1939 and 1941.

A letter from Chief Justice William Rehnquist, read at a ceremony honoring Judge Holloway in the district court in Oklahoma City recently, references their “bachelor days” while Holloway was serving in the Justice Department in Washington, D.C. and Rehnquist was law clerk for Justice Jackson. Holloway himself has admitted that he and Rehnquist used to double date. Can’t you just see these two Bills prowling the singles bars together in D.C.? What young woman could refute the arguments they could advance?

I note our Bill managed to stay a bachelor a long time. His wife, Helen, tells me Bill cut quite a swath in Oklahoma City society—that he was tall (6’ 4”), dark (lots of curly black hair), and handsome. He was regarded as quite a catch, although obviously elusive. Finally Helen managed to bring him to the altar six days after his 40th birthday. We can all see why Bill could not resist the charms of this lovely young

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woman who became the First Lady of our circuit for seven years. Obviously, it was the right choice for both.

Except for the telephone bills he runs up calling his children every day, Bill Holloway is a frugal man. His always is the oldest car in the parking lot at the federal building in Oklahoma City. One law clerk said that the cars change from time to time, but they are always “old, rundown, and virtually worthless.” We hear rumors that his secretaries sew up holes in his suit pants when they wear through; and that each day Bill carries the same brown bag, with bologna and white bread with mayonnaise for his eat-in lunch at work. He is equally considerate of the budgets of his law clerks. Probably alone among our judges, Bill Holloway relies, in hiring law clerks, on telephone interviews and evaluations by former clerks to save the cost of a trip to Oklahoma City. (Of course, that may be because he is afraid they won’t come if they see Oklahoma City first; perhaps I ought to use that technique for my Olathe, Kansas chambers!)

Kidding aside, we see the real Bill Holloway through his work on the court and in the way he handles his relations with colleagues, law clerks, and court employees. I wrote to his ex-clerks for whom we had addresses and got back a great many responses. The words describing Bill Holloway that recurred again and again in these letters were the following: “friend, kind, caring, decent, compassionate, scholarly, a gentleman, polite, sensitive to the needs of others, hard working, patient, great integrity, modest, intelligent, dedicated, warm, good-humored, fair, treats every individual with respect and without pretense, courtly in a manner that is very rare in modern society.” His law clerks universally admire, respect, and love him, and try to model their own lives on the principles he taught them by example.

There is no doubt that Bill Holloway works as long and as hard as any judge in America. His law clerks state that he works at the office virtually every Saturday, and some Sundays. He went back to work in the office within a week after his major hip surgery. Bill inveigles his law clerks to work on Saturdays by providing, and cooking, lunch for them. I think he really does this Saturday lunch business to avoid Helen’s monitoring of his diet. The luncheon the judge provides is most often chili hot dogs, pop, milk, and chips, with a dessert that is either ice cream or something cooked by Sara Lee. The chips are low salt, of course!

On some fall Saturday afternoons there is doubt that Bill Holloway works the whole time. He keeps a radio in his chambers, and if the O.U.

football team happens to make a big play, the clerks hear a loud “yee haw” coming from behind the closed door of the judge’s office.

The long hours Bill Holloway works are required by the quality he demands in his opinions. Colleagues and clerks use these words to describe his opinions: “deliberate, respectful, careful, meticulous, diligent, thorough, attention to detail, with the least case being treated as important as the greatest, no premature judgments.” We colleagues know that when we find a Holloway opinion in our research we need only check subsequent developments, as he has carefully and accurately cited all the pertinent authorities and made all of the analyses possible. His opinions are excellent and definitive.

Of the hundreds of opinions by Judge Holloway for the circuit court, it appears that the Supreme Court granted certiorari in only four. That says clearly that in the eyes of the Supreme Court justices he has made few mistakes, as that Court generally takes cases to reverse. The good judge’s opinions for the circuit have only been reversed twice, one of them by a 5–4 decision. Bill Holloway is indeed a scholar in the law.

Bill served us seven years as our chief judge. He can point to many accomplishments during his tenure. When he became chief judge our case load was approximately 1500 appeals per year; now it is more than 2400. During Bill’s tenure as chief we adopted the procedures and the “overdrive” work habits that brought us current on our cases. We are now scheduling the cases for oral argument or other disposition as soon as they are fully briefed, in contrast to the 18-month wait in civil appeals that was too common a few years ago. During Bill’s tenure we developed the appellate settlement conference system that is helping our work greatly. During his tenure we recaptured the Denver Post Office/Courthouse along with the funding for the remodeling. He is going to be a very hard act for Monroe McKay to follow as chief judge.

As chief judge, Bill has done much to maintain harmony on a court with judges of strong and diverse views; he is significantly responsible for our reputation as the most collegial of the circuit courts. Bill truly believes in open discussion of our diverse views in conference on cases and on administrative matters. He is the most open-minded person I know. But he is also strong and stands for principles in which he believes, as he did recently in making arguments in the Judicial Conference of the United States on collateral review of death penalty cases, when he opposed the views of his friend the Chief Justice.

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Bill Holloway is such a gentleman, so nice and considerate of everyone, that we are startled by the sense of humor he displays on occasion. A clerk of Judge Murrah told me that Holloway knew Murrah required his clerks always to wear coat and ties, which they would shed as soon as Murrah left the office. Apparently our kindly Judge Holloway occasionally would slip into Murrah's library where these coatless clerks were working and with an air of sincerity and concern announce that Murrah had just stepped off the elevator—when their judge was not even in Oklahoma City.

Once I sent Holloway an opinion on which I had worked long and hard. He sent back a note that said he had carefully considered and reconsidered my opinion; he found its analysis thorough and persuasive, but he had one small problem. He hated to be a nitpicker, but if I would just change the last word of the opinion to “reversed” instead of “affirmed” he believed he could concur fully.

Professor Harry Tepker, who wrote the section on circuit judges for our as yet unpublished Tenth Circuit history, commented that a judge's career can be compared to a kind of quest. The judge's task is to resolve particular cases, master the law, and offer provisional solutions to the most persistent problems of American life. The good judge seeks reason, consistency, fairness, and wisdom; the “good judge relies upon logic, precedent, a sense of history, and a sense of limitations, moderation, and common sense.” The judge must avoid temptations to indulge personal emotions and to ignore the hard work of research and open-minded deliberation. I believe we would all say that Bill Holloway has lived up to that ideal.

We, your colleagues, Bill, salute you and look forward to continued association with you during many more productive years! (The portrait of Judge Holloway was unveiled.) (applause)

JUDGE HOLLOWAY: Justice White, Chief Judge McKay, Judge Logan, my dear friend, my fellow judges and lawyers, Judge Logan and the Court were very generous last year at Sedona to comment on my work as Chief Judge, and now again he's done it. All of you have arranged this delightful occasion for us today, and we are overwhelmed by the court honor that you have given me with this portrait.

I will just touch on one thing that Judge Logan mentioned: that there are diversity and differences of opinions on our court—that's true. I think that is best illustrated by Judge Ritter's comment when he was counseling one defendant on his rights and his appeal rights, he said,

“You’ve just been convicted, you’re subject to a severe sentence, you have a right to appeal, I must advise you, and I advise you to take it because you can never tell what those whiz kids in Denver will do.” That’s in our records.

I need no portraits of you to keep all of you, my dear friends, in mind. My fellow judges of my own court and of all the courts of this circuit, my faithful law clerks, many of whom are here, my devoted secretaries and all of the court’s excellent staff in Denver are an imperishable page in my treasured memories.

I must acknowledge the loyal continuous support and enduring love and tolerance of my wife and family during my judicial work.

For Helen and myself, I want to express our profound gratitude to you for this happy day, for this portrait, and for all our years of happiness with you. Thank you. (standing ovation)