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A TRIBUTE TO JUDGE CHARLES CLARK

A Law Clerk's Reflections

*Rodney A. Smolla**

The dedication of this issue of the *Mississippi Law Journal* to Chief Judge Charles Clark, marking his retirement from the bench, is a fitting tribute to a great Judge and public servant. I add these few words of affection and respect on behalf of all the many law clerks who have been privileged to serve Judge Clark over the years.

I can say without reservation that my year clerking for Judge Clark was the happiest of my professional life. Never again would I learn so much so fast, never again would I work in a setting so pleasant and collegial. What we clerks learned from Judge Clark was the most valuable lesson we will ever learn as lawyers: what it really means to be a professional, in the highest and best sense.

Judge Clark's grace and gentility are known to all in his professional and personal life. Every clerk who worked for him witnessed how he treated his colleagues, litigants, clerks and staff: with dignity. What I specially admired was his ability to transmit that example to his clerks and staff. We understood that we were to contest issues vigorously, but always with civility and modesty. We learned from Judge Clark how to traverse the contentious landscape of the adversarial system of lawyers and judges with aplomb and humility. These qualities made Judge Clark an effective administrator, an influential jurist, and a powerful role model.

Judge Clark took a warm interest in the lives and careers of the clerks, and one felt one could seek his support and guidance whenever needed. But there was also a healthy respect for privacy in everything the Judge did; we respected his privacy and he respected ours. I saw that what most mattered in his life was his family, and I knew that my family was what he thought

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should most matter in mine. Quality of life was important to Judge Clark, and in subtle ways he passed that message on to all of us--and for Judge Clark the road to a quality life was based more than anything else on loyalty and affection for loved ones.

Judge Clark also had an abiding sense for the quality of professional life. He worked enormously hard, and managed to get those who served him to work hard, but one never felt that life was frenetic or panicked. There was time for collegiality, for humor, for a relaxing lunch, for a coffee break with anyone in chambers.

One got the message early on that the Judge had no desire to "write for posterity." He was not interested in making headlines with his opinions or in his cases becoming jurisprudential showpieces. As clerks we were to help the Judge craft his opinions thoroughly and professionally, but avoid gratuitous philosophizing, literary excesses, and the announcement of legal propositions broader than necessary.

At the same time, the Judge did not believe in giving litigants short shrift. In all but trivial cases, he wanted to produce an opinion that would give the litigants on both sides a sense that they had received the full consideration their case deserved. A basic explication of the facts, a summary of the arguments presented, and a reasoned explanation of the result were to be included in all cases, great and small. And there was never any doubt as to who was the judge. As clerks we were invited to give Judge Clark our candid assessments and Judge Clark always listened carefully and with an open mind. But when the time came for him to resolve an issue, the resolution was his and his alone.

While Judge Clark's jurisprudence tended to be conservative, his conservatism was never strident or inflexible. He was open-minded in every case, willing to hear out and explore the arguments of each side, and willing to play devil's advocate against the prosecution and the defense. He strived for the "right" result—the result that comported with precedent, logic, and experience as best he could discern them. If he felt the law compelled a result that he did not savor as a matter of personal philosophy or temperament, he would brush aside those personal inclinations and vote for that result ungrudgingly. Although instinctively cautious about making new law, he never flinched from crafting those incremental changes in legal doctrines that are the lifeblood of our legal tradition.

At a time in the history of the profession in which lawyers and laymen alike are tempted to dismiss our judicial system as corrupt and cynical, Judge Clark stood out as immediate and irrefutable evidence that all is not hopeless: Here is a lawyer in a position of power and influence who is compassionate, diligent, honest, and thoroughly professional. Here is a lawyer's lawyer, a judge's judge, a clerk's judge.

One of the most striking surprises for a new clerk working for Judge Clark was the phenomenon of people "off the street" wandering into the chambers seeking help. They might have a grievance against a government agency, or a personal legal problem, and they somehow found their way to Judge Clark's office, thinking he could be of help. The first time I saw such a situation unfolding, I assumed the Judge's secretary would politely shunt the person off, explaining that the Judge and the United States Court of Appeals for the Fifth Circuit just didn't accept "walk in" traffic—that this was a Court that heard appeals, in cases handled by lawyers. It didn't happen that way. Judge Clark could see the stranger from inside his office waiting out in the reception area. He came out and cordially greeted the man, and spent several minutes hearing about his problem. He then gently and thoughtfully explained, in a few minutes, the general nature of the man's legal problem, and carefully explained where he should go for assistance. I will never forget the incident, or its lesson.

And we will never forget our clerkships. Thank you, Judge Clark, from all of us who were privileged to clerk for you. You and your family have our affection, gratitude, admiration, and our very best wishes for the future.