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We're in Recess: On Judicial Retirement

A retired trial judge reflects on the meaning of a life's work and the quiet, inevitable moment when even the most devoted career must come to an end.

By Steven Wallace

A courtroom bailiff's area of operation is called his bailiwick, but the word has come to have a broader meaning. It is also the judge's sphere, as well as that of the rest of the courtroom personnel — the trial clerk, the court reporter, the trial lawyer. Every profession, in fact, has a unique activity place, its bailiwick, from the mechanic in his garage to the scientist in the lab to the teacher in the classroom. It is where a person practices their trade, their familiar place in the workaday world.

Most people may work in their trade for as long as they remain healthy and wish to continue, including federal judges, who enjoy lifetime appointments. It is different for state judges, however. Each state establishes its mandatory judicial retirement age.

As a judge, first in Florida, then in Utah, I faced it when I turned 75. I had been at work in the courtroom for a grand total of 46 years, trying cases as a lawyer and later as a trial judge. There were plenty of memories in all varieties of cases, from simple assaults to homicides.

Yet, after all that, I discovered that T. S. Eliot was right when he penned his famous poem "The Hollow Men":

This is the way the world ends
Not with a bang but a whimper.

My final day in the courtroom was certainly no hotbed of judicial activity — no trial, no witnesses, not even a disgruntled lawyer grimacing at the denial of a motion. Instead, I dealt with a few mundane housekeeping matters, glanced around my courtroom, looked at the court reporter with what I suspect was a melancholy pair of eyes, and said for the last time: "We're in recess."

It is hard to say goodbye to a place where you have devoted so many years of service. While I have forgotten forever many of the thousands of cases over which I labored as lawyer and as judge, I still remember the first, down to the last detail: my initiation as an assistant public defender. I may well be the last person still alive who participated in that trial. I have perfectly preserved in my memory the bemused expression of the old circuit judge who almost seemed to be enjoying watching me stumble through what he knew was my first jury trial. It was 1972.

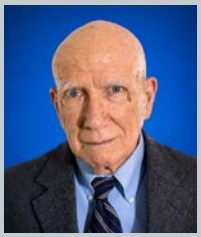
One of the most common, diurnal mental exercises of a sitting judge is the constant psychological and intellectual struggle to sustain the belief in his or her own ability to remain nonjudgmental. One knows that one is supposed to be a neutral arbiter; one recognizes that most people see the word "judgmental" as pejorative; and one has a heightened awareness of the constitutional mandate for unbiased due process. Shadowing every case, every judgment, is the ordinary perspective of every litigant: Justice is how you want your case to end. It is a highly personal and quite understandable viewpoint around which every judge must prudently and lawfully navigate.

Retirement for anyone is a moment of import, a threshold one approaches with a mix of wonder and dread. What you do is who you are. The way one earns one's living is definitional in that respect because one does it every day all of one's life. A tinkerer will always tinker, and for those lucky few who get to go through life doing something that they love to do, the looming prospect of retiring from it can be impactful.

Not with a bang but a whimper. Perhaps that's the way it ought to be.

So I called my final recess, gave the courtroom a closing gaze, and exited stage right; I had already cleaned my chambers. Chamber music for me no longer features the lilt of legal argument and adversarial singing by opposing counsel. It is, as it ought to be, a small ensemble of instrumentalists playing Mozart or Beethoven.

"We're in recess."



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1 T. S. Eliot, "The Hollow Men," in *Collected Poems 1909–1962* 77, 82 (1963).