



JUDGE JOSEPH “JOE” VAN WALRAVEN

FULL-TIME JUDGE FOR THE RENO- SPARKS INDIAN COLONY

BY PATTY D. CAFFERATA, ESQ.

Judge Joe Van Walraven opens his spacious courtroom for inspection. He presides behind a rich, golden-colored, wood bench adorned with the Reno-Sparks Indian Colony’s seal. The room has a six-seat jury box with six chairs in front for potential jurors to sit in during jury selection. The courtroom is outfitted with counsel tables and ample chairs, from which visitors may watch and listen to proceedings.

After the courtroom tour, in his chambers, he deftly pulls up statistics and calendars on his desk computer while recounting his life history. For the law library, Van Walraven has access to the USC Indian Code and uses FastCase, a service provided by the State Bar of Nevada.

Since May 2010, Van Walraven has been a full-time judge for the Reno-Sparks Indian Colony. He is no stranger to this community; after graduating from Arizona State University with a degree in Sociology, he worked as a Vista Volunteer for the colony in 1968.

Van Walraven spent two years organizing community meetings to promote police coverage in the colony and to expand the colony’s land base. Working with the Washoe County Commissioners, Van Walraven arranged for Washoe County Sheriff Bud Young to provide a police vehicle and an onsite police officer to the colony.

Years later, the colony acquired land in Hungry Valley for expansion. While Van Walraven does not take credit for this expansion, he was involved in the initial acquisition decisions.

While he was working as a Vista Volunteer, he became interested in poverty law and legal aid. He decided to attend law school and was accepted at the College of Law, University of Tulsa, in Tulsa, Oklahoma. To support himself as a student he worked in the law library. He graduated in 1972. He recalls that his favorite law school subject was constitutional law.

He returned to Reno and clerked for state district court judge James J. Guinan. Van Walraven was impressed by Guinan’s ethics and sense of responsibility; the judge never played favorites and showed up at the Washoe County courthouse before 8 a.m. and left at 5 p.m., Monday through Friday. He believed he was paid to work a full day and so he did.

After his clerkship, Van Walraven went into private practice, mostly doing trial work in insurance defense, products liability, medical malpractice and some commercial litigation. Van Walraven represented clients in all the courthouses in the state, except in Lincoln and Esmeralda counties.

The most legally challenging cases he litigated were medical malpractice cases. He defended five malpractice cases and won four and represented one plaintiff in a case that settled during trial.

He also successfully defended several frivolous civil rights cases involving prisoners. One inmate claimed that his being forced to wear flip

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flops while in jail constituted cruel and unusual punishment (Elko County). Another inmate claimed that an African-American police officer wrongfully arrested him for driving under the influence and chained him to a bench at the hospital while waiting for a blood draw; he claimed he was a victim of racial discrimination and cruel and unusual punishment (Churchill County). Another case involved a driver pulled over by the Reno-Sparks Indian Colony police officer for a broken tail light. The officer discovered that the driver did not have a driver's license. The driver refused to sign the ticket claiming the Constitution did not require him to have a driver's license. After much discussion between the two, the driver was warned that he would be arrested if he did not sign the citation to appear. The driver still refused and was arrested as promised. Later, he sued the colony in federal court and, not surprisingly, lost his case.

In 1977, Van Walraven began his first stint as a tribal judge for the Reno-Sparks Indian Colony, presiding over court one night a week or as needed for 10 to 12 years. He also held court every other week as tribal judge for the Walker River Paiute Tribe in Schurz, Nevada for about 18 years.

Occasionally, he served as a specially appointed judge on certain cases. His most famous decision

was in *Nevada v. Hicks*, 533 U.S. 353, 196 F.3d, 1020 (2001) from the Fallon Paiute and Shoshone Tribe court. Nevada Deputy Attorney General Wayne Howle appealed his decision to the U.S. Supreme Court and the court overturned Van Walraven's decision.

Van Walraven is impressed with lawyers who are dedicated and work hard for their clients. On the other hand, his pet peeves about attorneys are a lack of decorum and preparation. Van Walraven believes that the best part about being a judge is getting the opportunity to do what is right and to decide issues correctly, and that the worst part about being a judge is resolving contested child welfare and custody issues.

Van Walraven strongly believes that lawyers need to recognize the tribal courts as a valid system for upholding rights and holding fair hearings. He has been committed to these courts for decades.

Legal Community and Local Practice

Van Walraven's staff is made up of tribal court administrator Jeraldine Magee, court clerk Henrietta “Etta” Tobey and full-time prosecutor lawyer Eric Hoshizaki. The court also employs a full-time adult probation officer, two juvenile probation officers and a bailiff. The tribal advocates representing the defendants may be Native Americans or non-Indians with some legal training. Several private attorneys also appear in this court. To practice in this tribal court, attorneys sign a pledge to uphold the law and agree they are familiar with the colony's Law and Order Code. A \$50 fee must be paid before an attorney is admitted to practice.

A typical court day for Van Walraven begins at 8 a.m., with

court proceedings beginning at 9 a.m. The calendar includes arraignments, sentencing, guardianships, suspended sentences and parole revocations, estate matters, pretrial hearings and juvenile matters. He takes a community approach and takes tribal values into consideration when deciding cases. He also expects attitudes of respect and decorum in his courtroom from all parties. He presides over 50 to 60 hearings a month. Occasionally, he might be required to preside over a telephone hearing.

In general, most of the criminal charges are assaults, possession of small amounts of drugs, domestic violence, driving under the influence, burglary, theft cases and traffic matters. And, since the colony is a "dry" colony, the mere possession of alcohol within the colony is an offense. The court can handle most criminal matters, unless the U.S. Attorney takes jurisdiction, pursuant to the Major Federal Crimes Act.

In civil matters, the court basically has unlimited jurisdiction. Some of the civil matters considered include a wide range of disputes, such as wrongful terminations and civil rights violations. With the recent opening of the Wal-Mart on colony grounds, the number of arrests has increased. The non-Indians that are detained are turned over to the local authorities for prosecution.

On Tuesdays, the Healing to Wellness Court on drug and alcohol abuse cases is held. The purpose of this court is to assist those with drug and alcohol addictions to heal so the defendant can be returned to wellness. This court holds hearings on 25 of these cases a week.

Jury trials are set for Wednesdays and Thursdays with six tribal members sitting on the jury. The only jury trials scheduled to date have been on criminal matters with about three to five trials set each year, but most cases are settled before trial.

If a defendant is detained for a short sentence, the defendant is held in the Washoe County Detention Center and the bureau pays for the detention. In the case of a longer sentence (more than 30 days), the defendant is held in Owyhee, Nevada, Colorado or Wyoming. Detained juveniles are held in Hawthorne (Mineral County), Douglas County, Texas or Oregon. The bureau also pays for juvenile detentions or other government programs pay for their detention, depending on the nature of the offense.



PROFILE: **Joseph Van Walraven**

Born: New York City, New York, 1947

Graduated: Arizona State University and College of Law, University of Tulsa in Oklahoma

Background: Of Dutch and Flemish descent, his mother Janet raised him and his brother Ed in Paterson, New Jersey. She worked several jobs and retired as a U.S. Parole Hearing Officer.

Family: Wife Randy works in the insurance business and his daughter Vanessa is an aesthetician in New York. His son Joey is a firefighter in Lyon County, Nevada

Hobby: Riding his motorcycle

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