



LEARNING THE ROPES FROM SEVEN JUSTICES OF THE PEACE

BY PATRICIA D. CAFFERATA, ESQ.

Over the years, as a district attorney in Lincoln, Lander and Esmeralda counties, and a deputy in Eureka I spent most of my court time in the justice court. To prepare for this article, I interviewed a few of those JPs. This is what they shared about themselves, their thoughts on lawyers and the practice of law in their courts. Most of them agreed on certain facts, such as that the majority of their cases deal with traffic matters, possession of small amounts of drugs, status

In law school, I learned about legal reasoning, case law, legal writing and the information necessary to the practice of law. In the justice courts, I learned how to litigate and try cases. Under several justices of the peace, I honed my trial skills by prosecuting misdemeanor trials, questioning witnesses, offering evidence and arguing my cases. I also learned how to conduct preliminary hearings; these experiences successfully prepared me for jury trials in district court and arguments before the Nevada Supreme Court.

hearings and domestic violence. They, of course, hold first appearances, 72-hour hearings, misdemeanor trials and preliminary hearings on felonies and gross misdemeanors. Universally, they agreed that good lawyers show up on time, are prepared and are familiar with both their clients' cases and the law.

Here are their stories in the order I appeared before them in court.

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Nola Holton

In 1992, as the (part time) and appointed Lincoln County District Attorney, I appeared before Justice of Peace Nola Holton in the Pahrnagat Valley Township in Alamo. An experienced jurist, the voters first elected Holton to the bench in 1986; the voters have repeatedly reelected her. Previously, she worked for Las Vegas Metro in various capacities for about eight years. Later, when she and her husband moved to Alamo, they became the owners of a business that contracts with the post office to deliver mail. They still own that business, which currently delivers mail on 11 routes.

In the Alamo Annex building, a short distance off U.S. 93, Holton holds court, usually on Wednesdays, but schedules other hearings as needed. If she has a first appearance, she drives approximately 90 miles to Pioche, where the Lincoln County jail is located. Her favorite part of her job is presiding over trials. She looks forward to listening to the witnesses' testimony about the facts of the case and to how the lawyers present and explain their cases.

On the subject of attorneys, she and other rural justices of peace observed that some attorneys think non-lawyer judges aren't smart. She recalled a comment made by one attorney, who said, "Your Honor, I know you aren't law trained, but..."

Along those same lines, one Las Vegas attorney asked her to deal his moving traffic violation so he could avoid having four demerit points on his record. He sought to negotiate this charge down to running over a fire hose, failing to realize that this offense would result in twice as many demerit points.

As much as I enjoyed appearing before Holton and my job as DA, at the end of the year, I chose not to run for retention in Lincoln County. I could not face the weekly commute from my home in Reno to Pioche (about 450 miles: a five-hour jaunt that included a plane ride to Las Vegas and a 180-mile drive north to Pioche, the county seat, and back again at the end of the week).

Max Bunch

Two years later, I ran for district attorney in Lander County, a mere 230 miles from Reno. The people elected me, and I served until 1996, at which point I resigned to run for Congress. On I-80 in Battle Mountain, I appeared before Justice of Peace Max Bunch in the Argenta Township. The Lander County Commissioners appointed him to fill six months of an unexpired term in June 1992. At the time, he worked for the Lander County Sheriff, as a sergeant/coroner. In November of that year, the voters elected him to a full term and have reelected him in every election since.

This knowledgeable judge holds court in the district courtroom, but he will preside in his own courtroom starting in October, when the new courthouse opens. Generally, he holds court three days a week, more often if a defendant is in custody.

He appreciates lawyers who are not only prepared when they come to court, but who have talked to their client for more than 15 minutes, understand the seriousness of what happens to the victim and appreciate the other side's point of view.

Over the years, he has observed that some defendants are terrified when they first appear in court. Since they are totally out of their element, he tries to break the ice and get them to relax. He tells them they don't have to be as formal as the attorneys.

Juanita Colvin

Years later, in 2000, the Esmeralda County Commissioners appointed me District Attorney to fill an unexpired term. There, I appeared before Justice of Peace Juanita Colvin, in the Esmeralda Township in Goldfield. I first met Colvin and her rancher husband Ben when I was campaigning for state treasurer in 1978 or 1982. She was already the justice of the peace, and has served as a judge for 24-years; obviously the voters reelected her numerous times. Before she was elected, she served as the court clerk. She

holds court mostly on Mondays through Wednesdays, in her courtroom on the first floor of the courthouse located on U.S. 95. The large corner room contains her bench, counsel tables, a couple of rows of chairs, her clerk's desk and all the office equipment, such as the copy and fax machines. Her favorite part of the job is performing marriages because everyone's mood is happy.

One of the most unusual cases she presided over took place many years ago. A disgruntled customer of a local brothel (prostitution is legal in Esmeralda County), filed a small claims case because he did not think he got his money's worth. After blowing off steam, he slowly crept out of the courtroom.

Holton, Bunch and Colvin are a few of the seasoned judges I appeared before as a district attorney. Among the current justices of peace, I know two because they were Nevada Highway Patrol troopers when I served in their counties. I've called them as witnesses in some of the traffic and criminal cases I prosecuted.

John Schweble



When I was the deputy district attorney in Eureka, a law enforcement officer who frequently testified in my cases is now

Justice of Peace John Schweble of the Eureka Township in Eureka on U.S. 50. He worked as a trooper for the Nevada Highway Patrol for 28 years before he was elected to the bench. The voters first elected him in 2000. Since then, the voters returned him to the bench twice. He holds court in the Eureka Annex Building Monday through Friday, depending on the cases and whether people are incarcerated. His favorite part of the job is performing weddings. His observation is that everyone leaves pleased with his involvement, not like some parties in court cases.

One of the memorable cases he presided over involved an old man, who had been repeatedly arrested for alcohol

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offenses. During one court appearance, Schweble could smell alcohol on the defendant. He asked the deputy sheriff/bailiff to test him for being under the influence of alcohol. When the defendant failed the test, Schweble ordered him to jail for five days for contempt of court. When he next appeared in court for another alcohol-related offense, Schweble asked him, "Do you like the Eureka County Jail?" He said, "As a matter of fact, it is the best one I've been in."

Mike Cowley



When I was the Lincoln County D.A., I met the other current justice of peace, Mike Cowley.

After he retired as a lieutenant from the highway patrol, the voters elected him the justice of the peace in the Meadow Valley Township in Pioche in 2006; they reelected him in 2012.

He holds court mostly on Tuesdays in the district court room. Occasionally, he must schedule his calendar around the district court's docket. He moves his calendar to any open day to keep things current.

Cowley's favorite part of the job is presiding over juvenile traffic cases. He likes working with the kids and always hopes for a positive outcome. On the other hand, he is less than fond of some of

the lawyers, who often drive from Clark County to represent their clients. His pet peeve is when some of them tell him about how 'they' do things in Clark County." He believes these lawyers fail to understand that he and the other rural judges are not ignorant of the law nor so busy that they cannot review each case and thoroughly understand the issues presented.

One of his memorable cases involved three young men from Arizona, who appeared in court together. Expecting a "good deal," they entered a plea of guilty on their individual speeding tickets. A co-worker, on a ranch 30 miles north of Pioche, told them that although he had received a speeding citation for 100 M.P.H., the assistant district attorney had reduced it to a non-moving violation, and he paid a minimum fine. The three men requested the same deal their friend had received. When they were advised that the particular assistant D.A. was no longer employed by the county, Cowley asked if they wished to change their guilty pleas. Based on their previous experiences with speeding tickets (at least three), that mostly had been reduced to non-moving violations, the men declined. Cowley accepted their guilty pleas, and fined each of them at the citation amount with the appropriate demerit points imposed. After the hearing, Cowley overheard one of them say about the assistant D.A., "Too bad, he no work here no more." Apparently, they learned their lesson; none of the men ever received another speeding citation within the court's jurisdiction.

Kevin Higgins



The next two justices of peace I have not appeared before, but I knew them before they became judges.

The first is Justice of Peace Kevin Higgins in the Sparks Township. I met him during the times he worked for the Nevada Attorney General's office. When he was appointed to the bench in 2003, he was serving as the Chief Deputy Attorney General in Reno. Since his appointment, the voters have reelected him twice.

Working full time, he holds court Monday through Friday starting at 8:30 a.m. beginning with criminal arraignments

until the calendar is completed. His favorite part of the job is being able to help people reach a reasonable conclusion to their cases. Many times, especially in civil cases, the people appearing before him just want to be heard and are willing to come to a compromise, after having had their "day in court."

His pet peeves are not so much about lawyers, but about some litigants. He is convinced they've watched too much television and think that's how real courts operate. Yelling at their opponent, or the judge, is rarely helpful. The volume of an argument is not directly related to the likelihood of success. He is still surprised that, when he tells someone to stop yelling or arguing, it generally just gets worse.

A couple of the interesting or unusual occurrences in Higgins court have included a parrot sitting on a man's shoulder during small claims court. He fed the bird peanuts all afternoon. Neither the man nor the bird appeared before the bench with a case nor as a witness, but merely observed the court proceedings. In an unrelated matter, Higgins issued a protective order prohibiting a neighbor from throwing dog feces over the fence into the adjoining yard. Repeated violations resulted in the "flinger" going to prison for one to four years. And, in May, a gentleman appeared before Higgins after being issued a ticket by the Union Pacific Railroad Police. The charge was for sleeping on the railroad tracks – twice.

Chris Wilson



Chris Wilson is another JP in the Sparks Township, the newest justice of the peace I met. We met during the last

campaign cycle. The Washoe County Commissioners appointed Chris Wilson to Sparks Township bench in early 2014. The voters elected him the following November. Previously, he had served for 16 years as a prosecutor in the Washoe County District Attorney's Office. It is a busy jurisdiction; like Judge Higgins, Wilson holds court Monday through Friday every morning and afternoon.

His favorite part of the job is helping people, because a just resolution in a civil dispute helps people emotionally let go

and move on with their lives. Even in criminal cases, when he finds a defendant guilty, for example, of driving under the influence, the conviction helps the vast majority of defendants understand that, “Okay, that has been determined. I am not going to fight that any more. Now, I am going to move to the next stage: how am I going to make sure this never happens again?” Once a case has been adjudicated, Wilson attempts to structure a sentence that not only punishes but also educates the defendant. The sentence must also be workable, so the defendant does not lose his or her house or job, or become overburdened, causing them to give up and return to the behaviors that got them into trouble in the first place.

Conclusion

While I did not always agree with the justices of peace’s decisions, I gained a lot of trial experience appearing before them; they were excellent teachers. I am a better lawyer for having had that experience. Nola Holton, Max Bunch, Juanita Colvin, John Schweble, Mike Cowley and Kevin Higgins seem to have served their communities well because the voters keep reelecting them. Likewise, the voters supported the Washoe County Commissioners’ appointment of Chris Wilson, demonstrated by the fact that they elected him again after his appointment.

Should an attorney be lucky enough to appear in one of their justice courts on behalf of a client, they should make the most of the experience and view it as a learning opportunity to become a better litigator. **NL**



PATTY CAFFERATA'S biography is on page 6.

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