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## DEDICATION

to

The Honorable John J. Gibbons

*Theodore V. Wells, Jr.*<sup>1</sup>

I speak to you today on behalf of the many lawyers who had the great privilege to clerk for Judge Gibbons. Within his law clerk family, we have many words to describe Judge Gibbons—father figure, mentor, friend, humble genius, a gentle giant of the legal profession.

I and my fellow Gibbons law clerk, Arthur Martin, first met Judge Gibbons in the spring of 1969. I was then a nineteen-year-old freshman at Holy Cross College and Art was a twenty-one-year-old junior. At that time, Judge Gibbons had not even been appointed to the bench, but he was already renowned as one of Holy Cross's most respected alumni. Art and I were two young black student activists who were part of the first wave of black students to integrate Holy Cross. When we met Judge Gibbons, he took an immediate interest in us, and the three of us began a friendship that would last for fifty years. That Judge Gibbons would take two young black Holy Cross students under his wing and embrace us spoke volumes about his willingness to mentor young people and to try to open up opportunities for African Americans.

Years later, after graduating from Georgetown Law School, Art would become Judge Gibbons' first black law clerk, and I would later become his second black law clerk. Unbeknownst to me, Judge Gibbons wrote an unsolicited recommendation for me to Harvard Law School, and I did not learn he had written the recommendation letter for me until years later. But again, writing an unsolicited law school recommendation for a promising student, and never even mentioning he had written the recommendation letter, was a classic Judge Gibbons act of kindness, where he quietly performed a good deed and never sought any credit for it.

As all of Judge Gibbons' law clerks will tell you, clerking for Judge Gibbons was like enrolling in a PhD program to study the intersection of American history and the federal court system. Almost every day of the clerkship, Judge Gibbons would take us across the street to the cafeteria in

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the Federal Building for lunch, where he would give us a history lesson about key events in the history of our country and how these events impacted the seminal legal opinions of the day, from *Marbury v. Madison* to *Brown v. Board of Education* to *Roe v. Wade*. In private, most of the law clerks will admit that there were times when we did not have a clue what Judge Gibbons was talking about. We just accepted that we were in the presence of a genius mind, and we rejoiced in the privilege to be his students. Just as Steven Hawking had a vision of how the universe was formed and the origins of black holes, John Gibbons had a vision of the history and the role of the federal courts in our democracy, and how the federal judiciary and federal common law had evolved from the Federalist Papers to the Constitution to the Federal Judiciary Act of 1789 and beyond.

Unlike many federal appellate judges, Judge Gibbons personally wrote the first draft of each of his legal opinions. He would write them out in long hand on a yellow legal pad and give them to his clerks to edit. He was a wonderful and highly efficient writer, and his opinions always sought to educate the reader about the reasoning behind his decision and, when appropriate, set forth the history surrounding the key supporting cases.

Judge Gibbons taught all of his law clerks about the importance of collegiality and how the appellate court system that was based on three-judge panels could not operate successfully unless the judges were collegial and respectful to each other. I would watch, both as a law clerk and later as a practicing lawyer, the many philosophical battles between Judge Gibbons and Judge Garth over various legal issues, which often produced heated inter-office memos and dissents. But I also witnessed how Judges Gibbons and Garth always remained beloved friends and respected colleagues throughout their entire careers.

In my personal life, one of the most important decisions I ever made was to take the advice of Judge Gibbons and decide to make my home in New Jersey and become a part of the New Jersey Bar family. When I clerked for Judge Gibbons from August 1976 to August 1977, I had no intention of staying in New Jersey to live or practice law. I was born and raised in Washington, D.C. and, but for my clerkship, I had never been to New Jersey in my life except for driving on the Turnpike. But two months into my clerkship, Judge Gibbons told me that he thought my wife Nina and I should make our home in New Jersey, and that I should go and practice law with Matt Boylan who was a partner at Lowenstein Sandler and one of the best trial lawyers in New Jersey. I remember saying to Judge Gibbons that it made no sense for me to stay in New Jersey, that I really did not know anyone in New Jersey, and no one knew me. Also, I said that I had already accepted a job in Los Angeles at a large law firm. Judge Gibbons then gave me a sixty-minute talk about the things that were really important in life, including

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family and giving back to the community, and he said that, although no one could predict the future, he thought Nina and I should make our home in New Jersey and that he was certain the New Jersey community would embrace us. Stupidly, I initially rejected the wise advice of Judge Gibbons to stay in New Jersey, and in August of 1977, Nina and I got in our car to drive to Los Angeles. But as we drove to California, we continued to debate whether we should take the advice of Judge Gibbons and make New Jersey our home. Ultimately, in the middle of our drive west, outside the city of Junction, Texas, we decided that Judge Gibbons was right and that we should make New Jersey our home, so we turned the car around, and we headed back to New Jersey to make it our home. That decision was one of the most transformative decisions of my personal life and I will always owe a personal debt of gratitude to Judge Gibbons for helping me make the right decision to make New Jersey my home.

One of the great advantages for me of staying in New Jersey was that for the next forty plus years I would have the opportunity to maintain and grow my personal relationship with Judge Gibbons. He was truly a lifelong father figure in my life.

For more than ten years, Judge Gibbons and I would serve together on the Board of Trustees of Holy Cross, and five times each year Judge Gibbons would pick me up at five o'clock in the morning for our four-hour drive to Holy Cross. On those four-hour road trips, we would continue my education in American history, and also talk about life, politics, and sports. Judge Gibbons dearly loved Holy Cross and he was one of the most respected members of the Holy Cross Board. At the Board meetings, the most powerful and dominating presence in the room was the great trial lawyer Edward Bennett Williams. But Judge Gibbons was the one Holy Cross board member who could get Edward Bennett Williams to back down on an issue. Edward Bennett Williams recognized that, although Judge Gibbons was not a great orator, and although Judge Gibbons was a quiet, humble person by nature, Gibbons possessed a razor-sharp intellect that deserved maximum respect. When Judge Gibbons talked, everyone listened, including Edward Bennett Williams.

Let me tell you a short story to highlight the humility and integrity of Judge Gibbons. In the mid-1980s, Judge Gibbons and I were driving in his car returning from a New Jersey Harvard Law School Association meeting in New Brunswick. On the Garden State Parkway, we had a terrible car accident. Someone had stopped their car in the middle lane of the Parkway. The car in front of us was able to avoid the parked car, but Judge Gibbons plowed into it. His car was badly damaged, but fortunately we were not hurt. The state troopers who came to deal with the accident were suddenly called off to deal with another more serious car accident, and they told us that a tow

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truck would come to get us, but it might be a while. I kept saying to Judge Gibbons, will you tell the troopers that you are a federal judge and not to leave us out here alone on the Parkway. And Judge Gibbons said no—he just told the troopers that his name was John Gibbons and nothing more. This was in the era before there were cell phones, and it took us quite a while to get home. After that incident, I would sometimes joke with Judge Gibbons by calling him Mr. Integrity. But as all of us know, he was Mr. Integrity, and he was a role model of integrity for all of us.

In 2005, the American Lawyer Magazine awarded Judge Gibbons its Lifetime Achievement Award at the Waldorf Astoria Hotel. Judge Gibbons gave me the great honor to present the award to him that night. In his acceptance speech, Judge Gibbons discussed how his legal career had come full circle. From the time in 1967 when Judge Gibbons demanded that persons incarcerated during the Newark riots had to be given lawyers and access to the courts, to his similar request before the U.S. Supreme Court in 2004 that the detainees at Guantanamo Bay Naval Base had the right to counsel and judicial review as to whether their incarceration was legal. In each instance, Judge Gibbons had argued for the same basic principle, that the rule of law must apply, that the courts must afford judicial review of executive power, and that there is no such thing as a “No Law Zone.” I will never forget how the packed audience gave Judge Gibbons a powerful standing ovation that night. An ovation that showed the collective love and respect of a national audience for this humble genius lawyer from Newark.

In closing, we had our final law clerks party for Judge Gibbons at my New York apartment in 2012. We had clerks come from all over the country and it was an outpouring of love and respect that I have never witnessed. The judge was overjoyed as each law clerk gave remarks about how the Judge had touched their lives. We were all blessed to have that final clerks’ party with Judge Gibbons; it was our opportunity to tell him how much we loved and respected him. Judge John Gibbons was our father figure and our mentor, and we will all miss him dearly.