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## Gerald Bard Tjoflat: A Profile

By Daniel S. Bowling III\*

### Introduction

Edwin L. Jones was a judge on the 4th Judicial Circuit in Northwest Florida in 1968. He liked guns and an occasional whiskey more than his wife, it was said. One evening in his den, each was present – guns, whiskey and wife – when he accidentally shot himself in the head with a revolver.

On June 7, 1968, while the judge lay in a coma, The Florida Bar held its annual meeting at the Americana Hotel on Miami Beach. A prominent Jacksonville law firm – Botts, Mahoney, Whitehead, Ramsaur & Hadlow – sponsored a reception. During the reception, an emissary of Florida Gov. Claude Kirk walked up to a partner in the firm, a large, outgoing grandson of Norwegian and Chilean immigrants, and told him Judge Jones had died that morning. The governor – the first Republican governor of Florida since Reconstruction – wanted to appoint a Republican lawyer from Jacksonville to serve the remaining months of the deceased judge's term and run in the fall general election. Given the heavily Democrat makeup of the electorate, it amounted to a political suicide mission; but the big man standing in the head of the greeting line – a fine trial lawyer and a Republican to boot – seemed like the type who wouldn't shy away from a fight. His name? Gerald Bard Tjoflat.



Judge Tjoflat, the honoree, at a 2010 reunion of his former Duke Law School clerks (courtesy Dan Bowling)

### "The Most Unforgettable Person I Ever Met"

This is how Edward Becker, the Third Circuit judge, described Judge Tjoflat in a Duke Law School tribute.<sup>1</sup> Few who have

met him would quibble. He is a "gregarious and very likeable person with a great sense of humor," according to the late Justice Byron White; "great fun to be with."<sup>2</sup> He is currently the longest-serving active judge in the federal judiciary, with a record of "exceptional service" and "superior legal and administrative ability" according to (then) Chief Justice William Rehnquist.<sup>3</sup> He is an athlete and outdoorsman who overcame a crippling handicap to become a varsity athlete in college, once playing 36 holes of golf with a disintegrating foot. An accomplished lawyer and legal scholar,<sup>4</sup> he is a "perpetual motion machine" according to Fifth Circuit Judge Charles Clark.<sup>5</sup> He is a family man, a loyal and loving father and husband. He is a kind and giving community leader and beloved figure in the Boy Scouts of America,<sup>6</sup> yet a notoriously tough questioner from the bench, with little tolerance for the ill-prepared who dare to venture before "Tjoflatosaurus Rex."<sup>7</sup> He is a loyal supporter of his school, Duke Law.<sup>8</sup> Perhaps most impressively of all, he is a mentor and friend for life to the dozens of law students who have served as his clerks.<sup>9</sup>



Judge Tjoflat was honored at the 2014 Boy Scouts' American Values Dinner in Jacksonville (courtesy of the Tjoflat family)



Noah and Jessica, the family of former law clerk Joel Buckman, during a visit with the Judge (courtesy of the Tjoflat family)

See "Hon. Gerald Bard Tjoflat," page 18

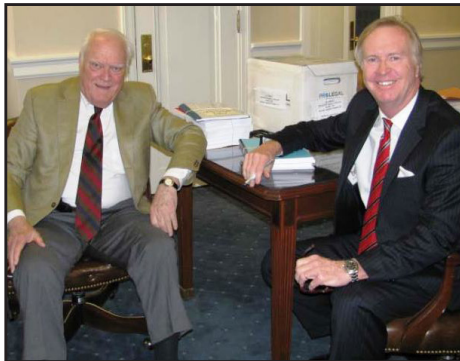


Judge and former law clerk Christopher Leach  
Federal Judicial Round table Discussion, The  
Florida Bar's annual meeting, Orlando, June 2011  
(courtesy of the Tjoflat family)

It is humbling to be asked to write a profile of Judge Tjoflat, particularly when one follows in the footsteps of Supreme Court justices in doing so. It is also difficult to capture in a few pages the

essence of such a “man in full,” to borrow Tom Wolfe’s phraseology. Judge Becker faced the same challenge in writing his tribute of Judge Tjoflat: “does Roget have enough terms to describe this man? The ones that come most readily to my mind are overpowering (both intellectually and physically), brilliant, energetic, dynamic, direct, forthright, courageous, larger than life, and take charge.”<sup>10</sup>

Certainly, given the demands of space, it requires more than one issue of this journal. Here, we look at Judge Tjoflat’s early days as well as two of the high points of his life on the bench. In a future issue, we take a closer look at Gerald Bard Tjoflat, the family man, judicial leader, and citizen.



Judge Tjoflat and the author Dan Bowling  
Tuttle Courthouse, Atlanta, April 2014  
(courtesy U.S. Court of Appeals, 11th Circuit)

## Early days

Gerald Bard Tjoflat was born in Pittsburgh, Pa., on Dec. 6, 1929. He was the oldest child of Gerald Benjamin Tjoflat, a first-generation American of Norwegian descent, and Sarita Romero Tjoflat, a Chilean-born child of a Methodist missionary mother and Spanish immigrant father. His parents met while students at the University of Wisconsin in the 1920s, where Judge Tjoflat’s father earned an electrical engineering degree (he later obtained a law degree) and played varsity baseball.

The reader might be surprised to know the robust and vigorous Judge Tjoflat was born with a serious disability

– “a profound case of club feet,” he says. In 1930, his parents - worried their son might be handicapped for life – allowed a university surgeon named Silver to perform experimental surgery on his feet. The surgery was largely successful, but Dr. Silver warned he would have to wear braces for a number of years and have post-adolescence surgery.<sup>11</sup>

Young Gerald was done with the braces by the end of third grade, sooner than Dr. Silver predicted, and by the age of 12 was well known in youth athletic circles. Like his father, he had a particular passion and talent for baseball.<sup>12</sup> As a high school senior, he was offered a baseball scholarship to the University of Virginia and began his matriculation as a ‘Hoo in 1948.

The baseball scholarship didn’t cover all of his expenses in Charlottesville, however. To save money, he transferred to the less expensive University of Cincinnati in 1950. In 1952, he enrolled in Cincinnati’s law school, although he admits, “I really had no idea of what I wanted to do . . . and entered law school for no reason other than the fact that my father was a lawyer.”

Fate plays a big hand in life. Indeed, the pre-Socratic Greeks believed all of our happiness in life was subject to the whims of the Gods.<sup>13</sup> In Judge Tjoflat’s case, his childhood disability would play a large part in why he didn’t complete his studies at the University of Cincinnati and live a life as a prosperous Midwestern lawyer – and instead follow a winding path to Jacksonville, Fla.

## You’re in the Army now

Christmas Eve of 1952 was an unremarkable day in Pittsburgh, Pa., where the young law student was home with his family for the holidays. Cold, but not bitter; no snow.<sup>14</sup> (At the 38th Parallel in North Korea, where American troops were locked in a death struggle with Chinese regulars, it was snowing and much colder - “colder than a well-digger’s fanny in Alaska” is how one veteran described it).<sup>15</sup> The mailman filled the Tjoflat box with last-minute Christmas cards, small gifts, and one odd item - a letter to young Gerald from the U.S. Government.

It was an induction notice. He was headed to Korea, it appeared.

“On Christmas Eve, I received an induction notice from my Draft Board, ordering me to report for induction into the Army on Jan. 15, 1953,” says Judge Tjoflat. “That was the day for the commencement of mid-year exams at the law school. My father tried to negotiate a continuance so I could take the exams – then report for induction – but failed. The Korean Conflict was hot, and student

deferments for graduate school were no more.”

At the end of the 16-weeks of basic training, the company fell out and the master sergeant barked out deployment orders. Fully expecting to be sent directly to a rifle squad in the Korean hot zone, Judge Tjoflat instead was told to report to the captain’s office. There, he and one other inductee met a plainclothes special agent of the Counter Intelligence Corps. Judge Tjoflat was to spend the war working as a counter-spy. His bad feet (and obvious intelligence, one can presume) kept him out of the frozen combat zone.

It also taught him skills he was to put to good use later in life. Assigned to conduct security clearance investigations for the Department of the Army, he honed his cross-examination technique to a fine edge: “The investigations – specifically, the questioning of hundreds of individuals from practically every walk of life – paid great dividends in practice and the judiciary,” says Judge Tjoflat.

## **Love and the law**

After two years of meritorious service, Judge Tjoflat was discharged. In 1955, he took and passed the law school exams delayed by the war, but his original classmates had long since graduated. On the advice of his dean, who had spent some time at Duke Law School, a small but academically ambitious private school in North Carolina, Judge Tjoflat transferred there to complete his legal education. It was there, in the middle of a forest of trees and bright classmates from around the country, that he “learned to love the law.”

He also found love of a different sort. One of those classmates – perhaps the brightest of all (she was class valedictorian) – was Sarah Pfohl. Sarah and the future judge quickly became inseparable and upon graduation in 1956 married. The newlyweds had their choice of career opportunities but, unlike many of their classmates at Duke, spurned offers from the big Northern firms. Adventurous by nature, they set off down U.S. 1 to build their lives and careers among the sandy pines and beaches of North Florida.

The Tjoflats quickly established themselves in the Jacksonville legal community; and in 1969, Judge Tjoflat finished out Judge Jones’ judicial term as discussed above. As promised, he ran in the general election and astonished even himself when he was unopposed and won. Private practice would have to wait for a few years.

It waits still. In 1970, Congress authorized a new seat on the federal bench in rapidly growing Florida, and President Richard Nixon picked the strapping young state court judge from Jacksonville to serve as U.S.

District Court Judge for the Middle District of Florida.

It didn’t take long for him to be tested.

## **Desegregating the Jacksonville schools**

For almost a century following the Civil War, Jacksonville’s public schools were segregated by race, a practice mandated by state law. When the Supreme Court in 1954 ruled that segregated schools were unconstitutional<sup>16</sup> and that schools should be integrated with “all deliberate speed,” the response of the courts throughout the South was one of delay, not “deliberation.”

Florida’s were no different. An integration lawsuit over the Jacksonville schools was filed in the Northern District of Florida shortly after *Brown vs. Board of Education*, but for years it was virtually dormant.<sup>17</sup> The public reaction after *Brown*, however, was anything but dormant. It was one of hostility and outright rejection, particularly in the South, as political officials stood in schoolhouse doors and federal troops, including the 101st Airborne Division, were activated on more than one occasion to enforce a court’s integration order.<sup>18</sup>

For well more than a decade, little progress was made – “deliberate speed” looked more like dead idle – but eventually the Supreme Court, under Chief Justice Earl Warren, said “enough is enough.” In 1970, in a long-simmering case covering Charlotte, N.C., schools, the Court ordered local school boards to do whatever it takes to integrate *now*, or else the federal courts would take over and do it for them. “Whatever” included forced busing.

The reaction in the South was again widespread resentment and bitterness. Even Georgia Gov. Jimmy Carter spoke out angrily against *Swann*.<sup>19</sup> In Jacksonville, *Swann* “caused the smoldering Jacksonville schools case to burst into the full flame of crisis,” in the words of one scholar.<sup>20</sup>

Jumping into this flame was newly appointed District Judge Gerald B. Tjoflat, who had taken over the desegregation case shortly after being appointed to the bench.<sup>21</sup> He wasn’t hesitant. Within two months, he took the earlier, half-hearted desegregation plan submitted by the Jacksonville school board and issued a sweeping new directive to the board. Following the Supreme Court’s lead in *Swann*, he directed that schools were to be integrated immediately, by busing where necessary. The board had one last chance to propose a plan or else he would do it for them.

The negative public reaction was predictable and directed in large part against Judge Tjoflat. A billboard

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- "Impeach Judge Tojo" - was erected in a prominent location; and because of death threats, he and his family had to be protected by U.S. Marshals.<sup>22</sup> Judge Tjoflat was personally unperturbed but concerned about the impact on his family, which included an assault on his 12-year-old son Bard by schoolmates. "Enduring the public reaction to what I was assigned to do was much harder on the members of my family than it was on me. I was in the middle of the battle and consumed only with what the law and my oath of office required of me. That was my focus - what was going on outside my chambers and the task at hand I put entirely behind me," says Judge Tjoflat.

The task at hand was to do his duty - not just as a judge, but also as a citizen. Fairness to the community, real and perceived, was critical. "At some point in my career in the judiciary, I learned that the more controversial a case may be—especially a case in which the public at large has a stake in the outcome - the more the process used to adjudicate the case is important," says Judge Tjoflat. By "process," Tjoflat meant ensuring that every affected party be "fairly heard."<sup>23</sup> The steps Tjoflat took to ensure fair hearings were extraordinary.

While the school board was drafting a new desegregation plan pursuant to his order, Judge Tjoflat drove to every school in the sprawling city to meet with faculty, students and administrators, black and white. Upon receiving a draft desegregation plan from the school board in May 1971, Judge Tjoflat held days of hearings in open court for comments on the plan.

With the hearings concluded in early June of 1971, and staring at a Court of Appeals' mandate to issue a final decision desegregating all schools by June 23, Judge Tjoflat went to the drafting board to fashion a desegregation plan and a final judgment. The entire city was aware of the date, and parents waited tensely to find out if their children would be yanked out of their neighborhood school and placed upon cross-town buses every morning of the school year.

On the afternoon of Wednesday, June 23, *Mims v. Duval County School Board*<sup>24</sup> was issued. In his order, Judge Tjoflat directed the school board to implement the mandatory reassignment of students to so-called "grade clusters" spread across the city to achieve a racial mix of approximately 25 percent black. Students were to be bused only to the extent necessary to achieve the mandated racial balance.<sup>25</sup> The judgment was affirmed on appeal.<sup>26</sup>

For the most part, and in marked contrast to cities like Boston, Mass., Jacksonville reacted peacefully.<sup>27</sup> The fairness and comprehensiveness of the order,

however painful it was to parents, was key. The Florida-Times Union, the paper of record for North Florida, headlined an editorial two days later: "A Workable and Worthy School Plan." The editors said the order, which contained "impressive logic," presented the "most reasonable and realistic one" to comply with the Supreme Court's mandate.<sup>28</sup> Years later, three former mayors of Jacksonville wrote a letter praising Judge Tjoflat for his judicial conduct during this period, noting "desegregation was instituted immediately and peaceably."<sup>29</sup>

Reflecting back on the case today, Judge Tjoflat wants no praise, instead complimenting his fellow citizens: "(the point to remember) is how was it that the citizens of Jacksonville, in a school case of such magnitude and gut wrenching, went about their business peacefully, accepting - albeit very, very grudgingly - the decision that came down . . . my take on it all is that the American people know in their guts - it's part of their makeup - the difference between right and wrong. They might not like a decision, but if it is right, they will accept it - and bitch about it at the same time, which our Constitution entitles them to do. They accepted what I did because they had a fair hearing; they had their say."<sup>30</sup>

### Terror assault on the Eleventh Circuit

Dec. 16, 1989, was a quiet Saturday in Jacksonville, at least if you weren't around the shopping malls. After a busy week of attending to his tasks as the newly appointed Chief Judge of the Eleventh Circuit,<sup>31</sup> Judge Tjoflat had no intention of messing with those crowds. He was relaxing in his two-bedroom condominium on the St. John's River near downtown Jacksonville when the phone rang. On the other line was Judge Samuel Pointer with some shocking news. Eleventh Circuit Judge Robert S. Vance had just been killed by a package bomb in his Birmingham, Ala., home and his wife grievously injured. No one knew if there were other bombs targeting judges in the Christmas mail. It was akin to the confusing, terrifying moments after the first planes flew into the World Trade Center on 9/11 - no one had any idea how many more were out there or how to find out.

Judge Tjoflat sprang into action. In an era where news moved far more slowly than today and instant communication involved dialing a number on a rotary phone, he furiously started trying to contact as many judges as he could. There might be a bomb sitting under their Christmas trees; they had to be warned! But there was a problem. Virtually no one - judge, clerk or administrator - was working that holiday season afternoon.

Judge Tjoflat finally roused a deputy at the Circuit

headquarters in Atlanta but was dismayed at the lack of urgency: "The marshal service was doing nothing." When the deputy marshal told Tjoflat of the marshal's service plan to telex each judge in their office, Judge Tjoflat knew this meant it would be Monday morning before any judge would receive notice beyond TV news reports. He hung up.

In typical manner, he took charge. Along with an FBI agent who had arrived at his condo, he began the process of calling each judge in the Circuit as well as its districts

warning them not to open any strange packages. He also found a federal marshal assigned to the court in Birmingham named Mickey Dahl. Knowing that Judge Vance's wife, who was in surgery and fighting for life, was the only eyewitness to the bombing, he instructed Dahl to wait for her to come out of surgery and take a statement. No time for sympathies or well wishing; she was the only witness to the crime and it was time to start gathering evidence and looking for the killer. Judge Tjoflat didn't sleep that night as he and (by now) others worked the phones. By dawn, every sitting federal judge or magistrate in the Circuit's territory had been contacted.

Over the next few days, information was scarce and rumors were rife. There were also bombs in the Christmas mail wrapped in plain brown paper like the one that killed Judge Vance. On Dec. 18, one exploded in the Savannah office of civil rights lawyer Robert Robertson, killing him. Another two were intercepted: one at the federal courthouse in Atlanta, the other at the office of the Jacksonville NAACP.<sup>32</sup>

Before Judge Vance could be properly buried, every federal law enforcement agency that might somehow claim jurisdiction – ATF, the Postal Service, the Federal Protective Service, the U.S. attorneys, etc. – jumped into investigating this sensational case. While the killer ran free and Judge Vance's body lay in a funeral home in Birmingham, turf battles erupted, and the NAACP pressured the White House to solve what might be a racially motivated crime.

Judge Tjoflat does not suffer fools, or bureaucrats, lightly. It was a "feeding frenzy," he complains today. Confidential information was "leaking like a sieve,"



Gerald and Marcia Tjoflat (courtesy Dan Bowling)

and he "was disgusted." Judge Tjoflat ordered representatives of every federal group involved in the matter to meet in a conference room at the Birmingham federal courthouse immediately following Judge Vance's funeral and let them know in no uncertain terms the infighting was to end. He picked up the phone and called Richard Thornburg, U.S. Attorney General, and asked him to send his "best prosecutor" down to take over the investigation from the squabbling bureaucrats.

Thornburg selected Louis Freeh, a top prosecutor in the Southern District of New York, who would later become head of the FBI. Freeh had recently obtained convictions of scores of Mafioso in one of the longest and most complex trials in U.S. history – the so-called "Pizza Connection" cases.<sup>33</sup> Like Judge Tjoflat, a no-nonsense, take-charge man, he proved up to the task.

After months of investigation, Freeh corralled enough evidence to try and convict Walter Leroy Moody of more than 70 charges in what the FBI calls "one of the largest cases in our history."<sup>34</sup>

Moody today sits on Death Row in Atmore, Ala.<sup>35</sup>

Moody's terror assault was over, and Judge Tjoflat played a key role in ending it with his "undaunted, unyielding courage," Judge Kenneth Starr later wrote. "Judge Tjoflat stood mighty and firm – staying at his post and (doing his) duty."<sup>36</sup>

*In a future issue, we will examine Judge Tjoflat's leadership in the Alcee Hastings affair, his loving marriage to Marcia Parker, his devotion to the Boy Scouts and community service, and his lifelong mentorship to his scores of clerks.*

## References

This article is based partly upon two lengthy interviews with Judge Tjoflat. One was conducted on Nov. 14, 2013, in Durham, N.C., at the Washington Duke Inn. His wife Marcia was present and participated in the interview. The second was on Jan. 6, 2014, in Judge Tjoflat's chambers in Jacksonville. The judge also provided the author with several pages of notes on the matters covered in the article, as well as numerous emails, which

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Judge and Marcia Tjoflat  
Portrait Presentation from the Fourth Judicial Circuit Florida State  
Court, April 2011. The portrait now hangs in the new state courthouse  
in Jacksonville. (courtesy of the Tjoflat family)

are kept on file with the author. Unless noted otherwise below, the quotes from Judge Tjoflat are from these materials and are not specifically noted in the reference section.

\***Daniel S. Bowling** is Senior Lecturing Fellow at Duke University in Durham, N.C., where he has taught since his retirement as senior vice-president of Coca-Cola Enterprises in 2006. He is a lawyer, member of the Historical Society and speaks and writes extensively about life and the practice of law. He can be reached at [dabowling@gmail.com](mailto:dabowling@gmail.com).

#### Endnotes:

- 1 Hon. Edward R. Becker, Circuit Judge, 3d CA: *Tribute: Gerald Bard Tjoflat*, 44 DUKE L.J. 985, 987 (1995).
- 2 Justice Byron R. White (Ret.), U.S. Sup. Ct., *id.* at 986.
- 3 Chief Justice William H. Rehnquist, U.S. Sup. Ct., *Tribute: Gerald Bard Tjoflat*, *id.* at 985.
- 4 See, e.g., Hon. Gerald Bard Tjoflat, *The Federal Judiciary: A Scarce Resource*, 27 CONN. L. REV. 871 (1994-1995).
- 5 Letter from Hon. Charles Clark (Ret.), 5th CA, to American Judicature Society in support of Judge Tjoflat's nomination for the Edward J. Devitt Distinguished Service to Justice Award (*hereinafter* Devitt Nomination) (February 7, 2007).

6 See, e.g., Hon. Gerald Bard Tjoflat, Address on Receipt of the Fordham-Stein Prize, New York, NY (Oct. 31, 1996) (transcript on file with author).

7 In his chambers, Judge Tjoflat proudly displays a cartoon likeness of a robed, snarling prehistoric creature that was presented to him by local attorneys. In the picture, the Tyrannosaurus is leaning over the bench and grilling a frightened attorney.

8 Letter from Duke Law School Dean Katharine T. Bartlett, Devitt Nomination (Feb. 22, 2007) (on file with author).

9 His wife Marcia likes to tell of their first date, when after dinner he took her to his chambers to see framed pictures of all his former clerks.

10 *Supra*, Duke L. J. at 587.

11 "One Saturday in December, I walked 36 holes of golf with a caddy at my golf club in Jacksonville. On awakening the next morning, the right foot was afire; I couldn't even bear to touch it. I called our family's orthopedist, Dr. George I. Raybin; he picked me up at my house and took me to his office, where he X-Rayed the foot. I was in a wheel chair, and as he was developing the X-Rays, he shouted, 'get in here.' He showed me the X-Rays, and the reconstruction Dr. Silver had accomplished in 1930. He said that Silver's experimental surgery was a topic of orthopedic study when he was a med student in NYC in the 1940s. My foot was exhibit A of how the experiment turned out in 1967 . . . Things eventually got back to normal, (and) I am free to play golf wearing a foot brace with instructions not to step into a sand trap or hit a ball from a side-hill lie." His playing partners are skeptical as to whether a medical professional actually issued these last instructions and wonder whether he is likewise medically barred from having to make short putts.

12 Judge Tjoflat later had the opportunity to play professional baseball.

13 The Greek word most associated with what we consider happiness is *eudaimonia*, which means "good demons" in its literal translation. As used by Aristotle, it means something very different, of course, but that is a subject for another day. <http://blog.talentmgmt.com/2011/12/19/if-it-was-good-for-aristotle-it-is-good-enough-for-me/>.

14 [http://www.wunderground.com/history/airport/KAGC/1952/12/24/DailyHistory.html?req\\_city=NA&req\\_state=NA&req\\_statename=NA](http://www.wunderground.com/history/airport/KAGC/1952/12/24/DailyHistory.html?req_city=NA&req_state=NA&req_statename=NA).

15 <http://www.rootsweb.ancestry.com/~txrha/f-nel01a.htm>.

16 *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

17 William F. Jung, THE LAST UNLIKELY HERO: GERALD BARD TJOFLAT AND THE JACKSONVILLE DESEGREGATION CRISIS 35 YEARS LATER, 80 Fla. Bar J. 10 (2006).

18 <http://www.cr.nps.gov/nr/travel/civilrights/ak1.htm>. President Eisenhower deployed the battle-hardened troops of the 101st Airborne in 1957 at Little Rock Central High in response to Gov. Orval Faubus' defiance of *Brown*. After staring into drawn bayonets, the governor relented. Several years later, Gov. George Wallace of Alabama famously stood at the entrance of the University of Alabama to prohibit the enrollment of two black students who were accompanied by federal officials and Alabama national guardsmen. After reading a proclamation, which was framed entirely in constitutional theory rather than the race-baiting for which popular history remembers him, he stood aside and let the students enter. [http://www.archives.state.al.us/govs\\_list/schooldoor.html](http://www.archives.state.al.us/govs_list/schooldoor.html).

19 Patterson, James (2001). *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy (Pivotal Moments in American History)*. USA: Oxford University Press. ISBN 0-19-515632-3.

20 *Id.* at ISBN 0-19-515632-3.

21 Like many events in Judge Tjoflat's life, there is a colorful story



## Hon. Gerald Bard Tjoflat

behind it: "At the annual 5th Circuit Judicial Conference held in San Antonio, Monday – Wednesday, May 3-5, 1971 . . . when I checked in at the hotel, there was a message to see Chief Judge John R. Brown. I called the Chief, and he asked me to join him in his suite. After greeting one another, he said, "I have some sad news. Bill McRae (then the supervising judge over the desegregation case) had an automobile accident Friday evening; he was inebriated and struck several cars. He was arrested and admitted to jail. He has an alcohol problem and will be taking a leave of absence for six months, perhaps more. You will take over his school desegregation cases, including the Jacksonville case."

22 Justice Byron R. White, U.S. Sup. Ct., *Remarks, Presentation of the Fordham-Stein Prize to Judge Gerald Bard Tjoflat October 31, 1996*, 65 FORDHAM L. REV. 2405, 2406 (1997).

23 Judge Tjoflat remembers the attorneys involved with fondness. "The lawyers before me in the Jacksonville case were sterling, absolutely first class. Yardley Buckman of the City's General Counsel's Office represented the School Board; Drew Days of the NAACP Legal Defense Fund represented the class plaintiffs. Drew Days later became Assistant A.G. of the Civil Rights Division in the Carter Administration and then a tenured professor at Yale. We are good friends to this day, though thousands of miles apart. Yardley, who was a good friend in law-practicing days, suffered an untimely death not long after I was appointed to the 5th Circuit."

24 329 F. Supp. 123 (M.D. Fla. 1971).

25 This solution was far more precision-tuned and less of a sociological experiment than the ham-fisted desegregation order of federal judge Arthur Garrity in Boston, who ordered that the entire junior classes of schools from insular Irish Catholic neighborhoods and the inner-city ghetto be cross-bused in Boston. Riots famously ensued. <http://www.hoover.org/publications/policy-review/article/7768>.

26 447 F.2d 1330 (5th Cir. 1971).

27 "The days before I reached the decision, I received hundreds of hate-mail type communications; in the months that followed, I received only one or two. And within two or three weeks, the DOJ

called off the Marshal's Office security detail," says Judge Tjoflat. 28 Florida Times Union, June 25, 1971.

29 Letter from T. Ed Austin, John A. Delaney & John Peyton, Devitt Nomination (Feb. 28, 2007) (letter on file with author).

30 In 2001, the case - and the court's supervision of Jacksonville schools - finally came to an end in *Jacksonville Branch, NAACP vs. Duval County School Board*, 273 F.3d 960, 965 (11th Cir. 2001). A lawyer starting his or her career in Jacksonville in 1960 could have spent an entire career on that one case. It is worth reading the opening paragraph of the order from Eleventh Circuit Judges Barket, Hill and Kravitch: "Forty-one years ago, this litigation began. The original complaint sought the desegregation of the Duval County, Florida school system. Five district court judges have presided over the case since its inception, and, four times, two different circuit courts of appeals have been asked to review one of their decisions. In this fifth appeal, we must decide whether the present district court correctly determined that this litigation should come to an end because the school system has achieved unitary status. We agree with the district court that the answer is 'yes.'" <http://www.ca11.uscourts.gov/opinions/ops/199912049.OPN.pdf>.

31 In 1975, President Gerald Ford had nominated him to a seat vacated by John Milton Bryan Simpson on the U.S. Court of Appeals for the old Fifth Circuit. He was confirmed by the Senate on Nov. 20, 1975, and received his commission on Nov. 21, 1975.

32 [http://www.fbi.gov/news/stories/2006/december/van-pac\\_122606](http://www.fbi.gov/news/stories/2006/december/van-pac_122606).

33 For more about the history of the so-called RICO "mega-trial" see *United States v. Casamento*, 887 F.2d 1141 (2d Cir.1989), and *Polizzi v. U.S.*, 926 F.2d 1311 (1991).

34 [http://www.fbi.gov/news/stories/2006/december/van-pac\\_122606](http://www.fbi.gov/news/stories/2006/december/van-pac_122606).

35 Alabama later followed Freeh's script and obtained a first-degree murder conviction under state law, which carries the death penalty.

36 Letter from Pepperdine Law School Dean Kenneth W. Starr, Devitt Nomination (Feb. 22, 2007) (on file with author).