

BenchMarks:



James C. McGuire Superior Court Judge, County of San Bernardino

by Ed Butler

Judge James C. McGuire embraces compassionate-minded maintenance of social order, in his role as supervisor of the Joshua Tree District of San Bernardino County Superior Court.

Assigned there since becoming the district's first Superior Court judge in 1990, Judge McGuire values the leadership and guidance roles of a judge. Mostly presiding over criminal matters, he's pleased to report the recent launch of a drug court at Joshua Tree and hopes to see a mental health calendar, as well.

He says his embarking upon a law career, as a lifelong resident of San Bernardino County, was simply what was expected of him by his family. By the time he was admitted to the California bar in 1972, there was no turning back.

Reared in Etiwanda on the same multi-generational citrus and grape farm as his father, Judge McGuire had an early exposure to the law assisting his father in his duties as constable for the Etiwanda Justice Court. In addition to helping tend to the crops, the future judge got to assist his dad serving process and also jury summonses, a task that his father did not relish.

An only child, Judge McGuire looks back fondly upon a rural character of life in Etiwanda when he was reared with the help of his grandmother, a Yurok Indian from the Klamath River area of California. His mother worked as a management analyst for the U.S. Air Force.

He is wistful about the time when Etiwanda, now a part of Rancho Cucamonga, had only 900 residents and one stopsign. He enjoyed playing tennis as a student at Upland High School, a 45-minute school bus ride away.

"It's almost a touch depressing," that the former home grounds have "become way too metropolitan for me," the judge says.

It's not surprising, then, that this lover of the country life sought more elbow room in the Morongo Valley, where he is contented to be located. "I love it here. I think this is one of the most misunderstood areas of the county. It's gorgeous... the pace of life is slower. It's really an unsung hero of the county, in my opinion."

After high school, he attended Chaffey College for 1½ years before spending two semesters aboard World Campus Afloat, a university aboard ship then operated by Chapman College. At sea students attended classes six days a week and then in port, went

ashore to learn about the geography and culture of the nation they were visiting. He says the experience helped students realize that the U.S. has the best system and "there are a lot of people worse off than we are and are different from us."

The antiquities of Egypt and Nazareth were memorable highlights, he reports.

(The program is now called Semester at Sea, operated by the Institute for Shipboard Education of Pittsburgh, PA.)

Judge McGuire then spent a semester at the University of Southern California, completing his bachelor's degree in political science, before shifting that year into law school there.

As a law student he interned at the San Bernardino County district attorney's office, and after becoming licensed to practice, he prosecuted crimes for the office for two years. That was followed by a 16-year career in private practice including family and criminal defense.

For a few years he partnered with attorney John Hardy in Fontana, with an emphasis on Lanterman-Petris-Short hearings to determine whether a criminal defendant is mentally and emotionally competent to stand trial. For 13 years before his judicial appointment he had a sole practitioner practice, also in Fontana.

Judge McGuire says he enjoyed criminal practice on both prosecution and defense sides. He says all criminal law practitioners would benefit from this dual exposure, as they can see on the one hand that defendants are really human beings that have erred, and on the other, the importance of enforcement of the law.

He recalls that when he was prosecuting that role was more of a training ground for attorneys, whereas career prosecution is more commonplace now.

While he also worked as a family practitioner, "that became very hard on me. I got very tired of the high-pitched emotions in family law, much higher than in criminal law."

After his Superior Court appointment by Gov. Deukmejian in 1989, he spent nine months as a judge in training in Victorville. He then became Joshua Tree's first Superior Court judge, presiding over a wide variety of matters including civil, criminal, family and water master adjudications. Upon his appointment there also was a Municipal Court judge and a part-time commissioner, and now there are three judges.

Now two judges including Judge McGuire hear mostly criminal matters and one handles all civil matters.

Judge McGuire says criminal cases are his favorite category as judge. "I think it's where we can make the most difference... I think it's a very important aspect of our justice system at the moment."

He says Joshua Tree's new drug court, started in January under Judge Swift, so far is "looking like it's going to be a tremendous asset to the community."

Judge McGuire would also like to see a mental health court established, in which he could draw upon his LPS hearing background. He says communication with mentally ill defendants is different, as the court while remaining firm needs to listen enough to "get

the meaning of what they want to convey." A specialized court in this area would consider the lack of criminal intent along with the need for something akin to probation that aids the defendant in dealing with mental issues while protecting society from harm.

Observed sentencing a defendant, Judge McGuire sought to encourage the young man to clean up his act. He says he likes to communicate some "Jewish mother guilt" to encourage defendants to turn away from crime.

"You never treat them as throw-aways... even if it's sending them to state prison... I still think you have an obligation to try to get their attention and say when you get out of prison I'd like you to be a better person." He finds that he needs to be really harsh with severe violators and "almost paternalistic with people you think the court system can draw up short so that they won't violate the law again."

As supervisor of the district, he finds the biggest challenge is sheer caseload, such as seven pending murders. While the statistics would justify another judgeship, that's not a realistic hope. However, Judge McGuire points to efficient administration of caseload thanks to such things as "an incredible calendaring system and our clerk's office is the best," resulting in a backlog that's not that bad.

Another big challenge is getting jurors to appear on their summonses in a district as big as New Hampshire. Workload demands prevent excuse of jurors for hardship and those failing to respond are cited for contempt and given the option of five days in jail, a fine or agreeing to appear at a later date.

Located near a Marine installation, the Joshua Tree court has concurrent jurisdiction with the military over violation of state crimes on military bases. The judge finds most Marines who are criminal defendants are "incredibly great young people but they make mistakes like anybody."

As for enjoying the role of judge, "I think what appeals to me most is the ability to make a difference... to maybe guide the community philosophy a little bit... by letting the community know there is strict adherence to the law," Judge McGuire says. Also, "I think it's very important for a judge to be uniform and consistent in (his) decisions and I enjoy that." He also likes offering "possible solutions to difficult problems."

The judge says he has much respect and admiration for the local bar association and finds most attorneys appearing before him to be on time, prepared and professional.

He says he insists on attorneys being honest and professional with each other and "nothing makes me madder than seeing lawyers not doing that."

As for himself, "I work very hard at not being a duplicitous human being... pretty much what I say you can believe is what is there."

Off work, Judge McGuire especially enjoys fishing in Prince William Sound, Alaska, when he has the chance. More routinely he enjoys retreating to his second home at Idyllwild and playing pinochle and canasta on computer.

Ed Butler is Manager of the Rancho Cucamonga Branch of the San Bernardino County Law Library.