

YOUNGSTOWN STATE UNIVERSITY  
ORAL HISTORY PROGRAM

Judges

Personal Experience

O.H. 1442

JAMES M. MCNALLY

Interviewed

by

Michael Graham

on

December 4, 1991

## James McNally

James McNally of Canfield, Ohio was born on July 15, 1953 to Jerome F. and Florence M. McNally. Judge McNally grew up on the North side of Youngstown. McNally's father died at an early age leaving his mother, Florence, to raise the children and run her husband's business ventures.

He graduated from Ursuline High School in 1971, and immediately enrolled at Youngstown State University. Judge McNally graduated from Youngstown State University in 1974. He attended the University of Dayton Law School and received his Juris Doctorate in May of 1977.

Judge McNally began his law career with the firm of Flask and Policy in January of 1978, a position he maintained until May of 1989. Judge McNally was a referee with the Mahoning County juvenile court until the retirement of Judge Martin P. Joyce. Judge McNally was appointed to fill Judge Joyce's seat in 1989, and he is still employed in that role.

In 1981 he married Linda A. Darvanan. The couple has two children, Kerry Lynn age 6 and James M. age 5. Judge McNally is member of St. Michael's Church in Canfield, Ohio. The Judge enjoys several sports including scuba diving and basketball.

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INTERVIEWEE: Michael M. McNally

INTERVIEWER: Michael Graham

SUBJECT: juvenile court system, growing up on north side

DATE: December 4, 1991

G: This is an interview with Judge James McNally for the Youngstown State University Oral History Program, on Judges, by Michael Graham, at his office at 300 East Scott Street in Youngstown, Ohio, on December 4, 1991, at 10:00 a.m.

Why don't you tell a little bit about your early childhood years.

M: First of all, I was born in 1953, in Youngstown, Ohio. Both my parents were from Youngstown. I was born at St. Elizabeth's Hospital on the North Side. I grew up on the North Side of Youngstown. I attended school at St. Edward's Elementary and Junior High School on the North Side. I went to Ursuline, which again was on the North Side. The Thursday following my graduation, I started college at YSU, which again was on the North Side. Ironically, there wasn't a lot of reason to have to leave the North Side.

As far as childhood, most of it was relatively normal and uneventful with the exception that I had four sisters and a brother. I was the fifth eldest of the six children. Most significantly, I guess, my father had died when I

was about four and a half years old, just prior to Christmas in 1958. We were raised primarily by my mother, who had been widowed at a relatively early age. She never re-married. She spent most of her life, obviously, raising six kids, which she did r a t h e r successfully. Nobody ever got into any degree of trouble. Other than that it was a relatively normal childhood. We did what most kids did. I played a lot of sports. I was a fairly decent student. I had a variety of interests. I'd say the one thing that kept us out of trouble for the most part was that the kids that we hung around with were pretty decent kids and have all since gone on to be pretty decent citizens. The reason I mention that is that we just had a 20 year high school reunion this past weekend, and having seen a lot of the old people that I went both to grade school as well as high school, most of t h e m turned out rather successfully as have a lot of my friends that were in different grades. As a matter of fact, growing up in my neighborhood I probably associated with kids that were a couple of years older than me.

That's just how our neighborhood was. The majority of guys I hung around with and played sports with, until I got into high school, were usually two or three years older than me. As I got into high school, obviously, there was an age gap so that I had my friends when I was in school and my other friends at home after school. In any event, the vast majority of them came from pretty wholesome, stable families.

G: What sports did you play?

M: We played just about every typical sport that kids play within a neighborhood.

G: What about organized sports?

M: Football and basketball. For some reason, in our neighborhood we weren't big on baseball. We played a lot of softball in pick-up games, but not too many kids played organized baseball even though there were good Little Leagues around. A couple did, but the majority didn't for whatever reason. Of course, at that time they didn't have varsity baseball in high school and college baseball was virtually non-existent. There wasn't much incentive.

G: Where were you living on the North Side?

M: On Florencedale.

G: That was where the first house I lived at was. [It was]

right across from the hospital.

M: We lived two blocks north, which is now a pretty devastated [neighborhood]. [It's] much much different today than I remember it growing up.

G: What was it like?

M: The North Side was rather densely populated with families. There wasn't much student or college housing. There weren't many apartments. For instance, in our neighborhood most families had at least four kids or more. Six was typical. A lot of the kids I ran around with had nine to 12 kids in their family. That wasn't uncommon. As you would expect, I guess, the fathers worked and the mothers were primarily housekeepers. Florencedale was a very nice street. A nice residential [street with] big oak trees. There were some rather well to do people that lived in our particular block. The woman who Crishal Flowers lived across the street. There was a guy that was a big executive with Youngstown Sheet & Tube. Next to him there was a guy I remember whose house we went into later on when we were kids after and he had moved out. It was one of these large houses with various entrances. I remember the third floor was a totally converted separate living unit where maids or servants probably resided in at one time. That was astonishing to us. It was a very compact, well manicured, well maintained neighborhood.

If you would look at it today, 20 some years later, you'd be shocked. Many of the homes have been demolished, there are empty lots. Many of them have been converted to multi-family units and apartments. A lot of that probably came with the expansion of the university and student housing starting to become popular. Then the freeway system obviously displaced a lot of people. You had a lot of people that came from other areas and moved into this area for jobs at General Motors, for example. You got more of a transient type population, so little by little the North Side has deteriorated from the residential area it once was to what it is now. You can see that. There are a lot of institutional facilities that didn't exist then that now occupy what were once large mansion type homes, particularly on Fifth Avenue around the Wick Park area. A lot of that changed just over the last 25 years. Crime wise, there are certain corners and so forth around Elm Street which are documented as high crime areas, which when I was growing up--which wasn't all that long ago--we would have never thought twice about on summer night or while going to school to walk up and down certain streets. There weren't busses [when I went to school], so we walked

to and from school as well as home at lunch time and back during grade school and junior high. It was a rather safe area, which probably today not many people would be able to walk those same streets. You've had a dramatic change in the character on the North Side.

One of the interesting things, if you think about it, that made the North Side unique, to me, was the fact that you could probably grow up, be raised, well educated, well employed, and never leave the North Side. You could walk downtown so you had a retail shopping area, by my house was a dentist, a doctor, a grocery store within a three minute walk. As I said, you could go to school from grade school, junior high, high school, and college and never leave the North Side. There were some substantial employers, including the university. There are three major hospitals located on the North Side. There were movie theaters within walking distance. There was one on Belmont Avenue, which is now a nursing center. There's a golf course. When you think about it, you could basically stay within the confines of that side of town and never have to leave and prosper fairly well. A lot of that has changed. The only thing you had to go off the North Side for was to get access to Mill Creek Park and/or to go to Idora Park. Other than that, just about everything was there. The reason I say that is because it isn't unusual for me to tell you that I grew up on the North Side and was educated there because a lot of people ended up that way. Some became employed there and probably have never left yet.

G: What did you father do? After he passed away, how did your mom support you?

M: My father was metallurgist with Youngstown Sheet & Tube prior to the 1950s, then he went into his own business ventures. One was a business that dealt with office supplies and aluminum products. Of course, aluminum products at that time were probably at their inception. They made school desks and other supplies. They had a variety of different products. He had a building that they were manufacturing and distributing from out in Boardman on Lake Park Road, which at that time was probably fairly isolated. Now it's well built up. He was running that business and he also had another store that had school supplies and religious articles. That was located on Market Street. At that time, there was more of a market for that sort of thing. So, he had two businesses that he was operating.

Fortunately, he had the foresight at that time to have a pretty substantial amount in life insurance policies. He left my mother at least protected to that degree, that she had the ability to have an income. In addition to that there were social security benefits. Based on those two things, she was able to have an income to raise us. Initially after his death she tried to run both businesses with the help of the people that were there, but after a couple of years she decided that she couldn't maintain two businesses. They closed and sold the assets of the manufacturing business, which was called Nola Products, and then a few years later she finally closed the store.

G: When you were in college was it Youngstown College still or was it Youngstown State?

M: It had become Youngstown State in 1967.

G: When were you there?

M: 1971.

G: Where did you go from there?

M: I graduated from Youngstown in three years because I took a lot of extra hours and went to summer school. I did take one summer off to go to Washington to work as an intern in the House of Representatives, which was a pretty interesting experience. In any event, I was able to finish in three years. I left YSU and went to the University of Dayton School of Law for three years to get my law degree.

G: What did you do for the internship?

M: It was spent in the office of Congressman [Charles] Carney, who was the local representative. Actually, how I got into it was a surprise to me at the time. A professor at YSU introduced me to the program and asked me if I'd be interested in it. I think I was 18 about to turn 19 at the time. I hadn't ever really been away from home, so I had some doubts and misgivings about going to Washington for three or four months. Fortunately, I decided it was a worthwhile opportunity. I went to Washington with no housing. There was supposed to be an office when you got there that would help you arrange for housing, but it wasn't too helpful quite honestly. Most of the dorms that they were using at some of the universities were filled or unavailable for one reason or another. I stayed in a hotel for a couple of days, but it got too expensive. I thought I was going to stay in a YMCA for a few days, but the conditions were pretty intolerable plus they were short on rooms and wanted me to get out as

soon as possible. I was able to find, by chance, an apartment right on Capitol Hill, which turned out to be the best thing I ever did because I had the ability to walk over to work in a matter of minutes. It was an interesting place and it happened to be an interesting summer because that particular summer Congress stayed in session longer than normal. There were a lot of things going on, it was a Presidential election year, it was the year Watergate occurred, the Supreme Court came back into session because there was a controversy about sitting the Illinois delegates at the Democratic convention. Often times the Senate and the House would stay in session until 2 o'clock or 3 o'clock in the morning. There was a special busing bill they were debating at the time. My roommate was a door man, and a lot of times he'd have to work until late into the morning, so I'd go over as a hobby. I'd go in and sit on the floor or in the balcony when there was hardly anybody there and listen to some of the debates in Congress or in the Senate. That was really a unique experience.

Also under the program they had set up a regular learning curriculum. They had events for us. We would have regularly scheduled speakers. L. Patrick Gray was head of the FBI at that time, he spoke, Senator Fullbright spoke to us, Senator Humphrey spoke, Senator Kennedy, different Cabinet members [spoke]. We were invited to Elmo Zumwalt's house, who was head of the Navy. They had a special event for us at Ford Theater to see *Godspell*. There was a whole regular weekly agenda of events for us to do. That was really a pretty well filled, fun, educational experience.

G: Was crime in Washington D.C. as bad as it is today?

M: Homicides weren't what they are today. It wasn't necessarily ever the safest place. We were fortunate because although I didn't have a car, my roommate had one. It was very seldom, though, that we ever drove a car. Where we were at, security was provided by the Capitol Hill police force, which is separate from the District of Columbia police force. The street that I lived on was almost directly behind the Senate office buildings and just caddy-corner from the new Senate office building. The last time I was in Washington, which was two or three years ago, the apartment building was still there. All of those buildings were patrolled by officers and guard dogs. There was an area of restaurants and discotheques and college bars on a little strip on Pennsylvania Avenue just beyond the Capitol that we could walk to with no problem feeling pretty safe and secure.



G: Getting more into the legal aspect, what did you do when you graduated from law school?

M: I came back to Youngstown. One of the fortunate things we had at Dayton University was that it was one of the colleges that finished up earlier than most, so to some degree, I think, it gave its students some advantage on employment, particularly summer employment. Soon after graduation I got home and ended up working as a law clerk in the 7th District Court of Appeals. I think at that time I was the first law clerk they had then. Since then they've expanded and use law clerks regularly.

I was trying to get ready to take the bar exam. In an effort to do that, I took a bar review course some time in July, which law students take in some form or another. I opted to take a live course in Cleveland. I worked in the day until about 4 o'clock, then I'd run home, get something to eat, drive to Cleveland for class at 6 o'clock that night. It lasted until about 11 o'clock, I'd drive home, and go to work the next day. It wasn't that bad because it only lasted six or seven weeks. The only major experiences I remember about it is the last night of class about 11 o'clock I came out and my car had been stolen. After that I studied at home, reviewed my notes, outlines, etc. I started to Columbus the night before the exam so I could get there early enough to check into a hotel and get a decent night's sleep. I borrowed my sister's brand new car and as I was somewhere half way between Youngstown and Columbus the car just died on the freeway and stopped. It was past 5 o'clock and all the garages were closed. So, it took me a while to get everything straightened out, to get the car towed to a repair garage, to get somebody to pick me up to show up with a car for me to drive to Columbus. By the time I got to bed it was about 2 o'clock or 3 o'clock in the morning. I really had my doubts and reservations about how I was going to do. Fortunately, I got the results in the beginning of November and I was fortunate enough to pass. In the meantime, I had been contacted and asked by a couple of guys that had a law firm if I'd be interested in going into their firm with them. It was probably sometime in October when we talked about it. I wasn't ready to commit myself not knowing if I'd passed the bar exam or not. It ended up that I passed, and I decided to leave the court of appeals at the end of the year to start with the law firm.

G: What was the name of the law firm?

M: Manos, Flask and Policy, which had three partners at the time. I think it was established in 1969. Ironically, it has just since dissolved itself for a variety of reasons. Everybody went their separate way and went on to different careers. I for one left to take this position as juvenile judge. One of my other associates there went on his own and became a county court judge. One of the other main partners left to become the president of the San Francisco 49ers. So, basically as a result of the change of careers of everybody, the firm has dissolved just within the last year.

G: When did you become a judge?

M: In May of 1989.

G: What's a typical day for you in your office?

M: I don't know how much you know about the juvenile court, so I'll give you a little background. Probably up to about 1970, there was a joint family court in Mahoning County. In other words, domestic and juvenile divisions were combined together. Then in 1970 or 1971 the legislature divided the courts in Mahoning County, which is typical of most larger counties in the state. Juvenile courts are set up so that they're either solely juvenile or they're combined as juvenile/domestic or juvenile/probate. Judge Joyce, who was my predecessor, was the first exclusive juvenile judge. At that time the juvenile court was located on the fourth floor of the Mahoning County courthouse while its detention center was located on Oak Hill on the South Side. Through Judge Joyce's foresight, he saw the need to expand the court and seized the opportunity by gathering federal monies through LEAA [Law Enforcement Administration Agency] grants as well as revenue sharing monies the city had to acquire the land that the court now sits on. At some point, with some additional state aid through Representative [George] Tablack, Congressman Carney, and state Senator [Harry] Meshel they got some state monies committed to the project. Basically this facility got constructed as a result of those efforts without any local monies. That's when this building as well as the detention unit were all built on this sight. That happened in about 1978.

Then in 1985, I think it was, Luke Levy happened to be a referee at the court. There were two referees then--Joe Bryan, who is still here at the court and has been for 27 or 28 years, was the other one. Luke Levy had been a long time referee at the court, at least 15 years or more. He was appointed to the municipal court as municipal court judge when Judge [Leo] Morley had left to go to probate

court. He [Morley] had won election as the probate judge, which left a vacancy. At that point I'd been practicing law. I did all the juvenile work in our law firm and handled everything in regard to this court. Having been here, having known Judge Joyce for a number of years--I knew him well in college, he talked me into going to law school, he signed my certificate during my first year attesting to my character. To make a long story short, I had a pretty long standing relationship with Judge Joyce, so when Luke Levy became Judge Levy, Judge Joyce asked me if I would want to assume the duties as referee. I did. That was really a part time position, so I stayed active in the practice of law. [I] basically did just about every type of case--misdemeanors, felonies, traffic, paternity, some custody matters (although Joe Brian did, and still does, the majority of those). I got involved in just about every aspect of the court as a referee.

I was the referee for four and a half years. Then Judge Joyce decided it was time for him to retire. He'd been here for nearly 20 years and he'd also had a lot of time prior to that as a municipal court judge. He resigned in mid-term. It was the governor's authority to pick his successor. At that time it was Governor Celeste, who had established a policy of handling appointments by first deferring to local authorities and the local party by asking them to interview candidates and submit a list of three eligible candidates. I guess the criteria was qualifications as well as electability. There was an interview and screening process locally, then the list of names was submitted to Columbus, and then interviews were conducted in Columbus. You had to go through a panel of interviewers in Columbus. Then finally after a three month delay from when Judge Joyce retired, I got notice that the governor had appointed me. The appointment was to fill the interim until the next general election, which was about a year and a half away. Then I had to run for the job on the ballot, which I did and I got elected. At this point I'm serving out the remainder of the term and would have to be elected again.

G: What's your typical day?

M: Juvenile judgeships are unique in comparison to other judgeships because they have a lot more administrative duties than other courts do. For instance, we're all members of the Common Pleas court. The general division sentences and confines prisoners to the county jail, which is maintained and operated by the sheriff. We have our own separate detention unit, and everything comes under my authority. We have our own maintenance department, our own detention unit, a doctor assigned to do weekly

physicals on kids that are admitted, we have a regular full time nurse, we have teachers that operate a regular curriculum for kids in detention, we have independent contractors that operate an in-house counseling program, we have our own probation department, as well as all the other administrative duties--bookkeeping, payroll, purchasing supplies, paying utilities. So, as you can see, a lot of what I do is not only what's connected with files and cases, but also a whole variety of administrative duties. So, my typical day is a combination of all of the above.

Usually I start hearing cases about 9:00 or 9:30 in the morning so that the hour or so before that I can go plan out my day, go through some mail, do some paper work, and then go into the cases. Throughout the rest of the day it's a combination of all of those things. It virtually fills the day. The court closes at 4 o'clock, the detention center is open 24 hours a day. With the variety of things we do, I'll typically work beyond 4 o'clock. Rather than just being a judge and concentrating on cases all together, I do a variety of different things, which is nice to some degree because it's kind of like running a business. Really to do it, you have to have, or should have, a background as a lawyer. Among the other things, you have to worry about employer/employee relations.

G: When I was sitting out in the waiting room I saw a kid go by in handcuffs and chains. I don't know how old he was, but he looked under 16. Is that hard for you to deal with?

M: The reason you saw him handcuffed and shackled with ankle bracelets is because it's standard operating procedure. It's not indicative of the charge that he may be here for, and it's not indicative of his character per se. When a juvenile has been admitted to detention and is to be transported anywhere--over to court or wherever--it is my policy that they be handcuffed and shackled only because we have some rather serious cases. [We have] a lot of felons, a lot of cases where there would be a motive to escape. We've had kids try to escape when they were only handcuffed. Our aids, or guards, or whatever you wish to refer to them as, are not armed. [It's] just for security purposes as well as the kid's own well being. Those things are removed once he gets to court so they don't restrict him. So, what you saw was only a matter of transportation procedure. But just because he looked in that position, you can't conclude he was a serious problem because he very well may not have been.

G: What I mean to say, is it harder to deal with kids in general? It would bother me a lot. How do you deal with that?

INTERRUPTION IN TAPE

M: . . . Some of the 13 and 14 year olds are here for serious offenses. Some of them have carried guns, they've sold drugs, they've been involved in stabbings or homicides, some are here as repeat felony offenders. They're committing adult crimes, so to some degree you treat them like adults, at least procedurally. You have to worry not only about their safety, but the safety of the community. On the other hand, you have to weigh that against what we're trying to do in the juvenile system, which is rehabilitate them and do what's in their own best interest. You have to weigh those things. Many times you have a serious felony offender that appears in court as a hardened, toughened individual, but when they get into detention they can be easily swayed by a bag of potato chips or a candy bar or a can of pop. The emotion of a teen age juvenile comes out. They're not that emotionally mature. You see the real being. Our goal and our function here is to rehabilitate and do what's in the best interest of a particular juvenile. We have to weigh that against the safety of the community. Maybe at one time that didn't exist so much because the crimes were of a different nature. They weren't vicious, they weren't dangerous, they were more of a prank type thing--property damage or maybe stealing something for the fun of stealing it. But now that's changed. A lot of these offenses are done for drugs or done in conjunction with a gun or a weapon. It's gut wrenching sometimes to deal with a kid that's 13 years old and in handcuffs, but there's good, logical reasons for it. But we have to do it. On the other side, we're sympathetic to them. I always have to remember that they are kids.

G: Do kids with a bad attitude--kids that no matter what you do still break the law--affect the way you sentence? Does their attitude affect the way you sentence?

M: Yes, we look at a variety of things. We look at a family/social history to get an idea of the family background that they come from. Sometimes we look at their own individual psychological assessments to know what's going on in that kids own personality or make-up. We weigh all of those things to find out what we should do that will be in his own best interest, not what's in his family's best interest. We look at a variety of things when it comes to sentencing. We look at his school

records, review his contact history with the court. That's how the juvenile system functions.

G: Are kids worse today than they were?

M: Overall I wouldn't say so. There are still a lot of good kids. But the kids we see are much more violent, much more likely to commit adult crimes. The variety and nature of the crimes we see are much different than they were five or six years ago. We have a lot of weapons offenses, a lot of serious drug dealers and users. It's a bit different than it used to be.

G: Thank you.

M: You're welcome.

END OF INTERVIEW