YOUNGSTOWN STATE UNIVERSITY

ORAL HISTORY PROGRAM

Judges

Personal Experience

O. H. 1435

FRED H. BAILEY

Interviewed

by

Michael Graham

on

December 9, 1991

FRED H. BAILEY

Fred Henry Bailey of Boardman, Ohio was born on July 25, 1928 to Fred C. and Naomi K. Bailey. Judge Bailey's father worked in the steel mills, and the family lived in Youngstown.

Judge Bailey graduated from Youngstown East High School in 1946 and entered the Marine Corps. Judge Bailey played on the Cherry Point Marine Corps basketball team. The judge was discharged from the Marine Corps in March of 1948.

Judge Bailey returned to Youngstown and began working in the steel mills. In 1954, Judge Bailey graduated from Youngstown College where he also received his law degree.

Judge Bailey married the former Ann M. Zappi, and the couple has two children: Laurie Lee, age 29; and Fred H. Bailey, Jr., age 26. Judge Bailey began his practice with Attorney Don L. Hanni, and eventually went to work for the Humane Society.

Judge Bailey was elected to the Mahoning County Court in 1972, and he is still a county judge. Judge Bailey currently presides over the Austintown Court and is still an active attorney.

The judge is a thirty-third degree Mason and has received the Silver Beaver from the Boy Scouts of America. He is a member of Lockwood United Methodist Church and is a member of the Eagles, the Saxon Club, the Masons, the Crime Clinic, the Marine Corps League, and the Mahoning Valley Council of the Boy Scouts of America. Judge Bailey is also past president of the Mahoning county Bar Association. The Judge enjoys being a member of the Boy Scouts of America, going fishing and collecting Native American artifacts.

-Michael Graham

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INTERVIEWEE: FRED H. BAILEY

INTERVIEWER: Michael Graham

SUBJECT: Depression, Marines, parents, college, Bar, judgeship, cases, sentencing

DATE: December 9, 1991

G: This is an interview with Judge Fred H. Bailey, for the Youngstown State University Oral History Program, on the Judges project, by Michael Graham, at Youngstown, Ohio, on December 9, 1991, at 9:00 a.m.

Let's start out with something pretty simple. Why don't you tell me about your childhood--the early years--as you were growing up?

B: Well, I was born in 1928; and shortly thereafter, we were in the Depression time. So, it was exciting. Nobody had that much money. My dad worked at Sheet & Tube. I guess he was off for about two and a half years. I grew up, over in Brownlee Woods, on the south side [of Youngstown]. I went to Jackson School. After two or three years of Jackson School, we moved over on to the Eastside, to Shehy Street. I attended Lincoln School, there; then [I] went on to East High School. [From there] I went into the Marine Corps and, when I got out of the Marine Corps, I went to Youngstown College. I got a degree at Youngstown College. I got my LLB from Youngstown University, and I got the doctorate from Youngstown State University. So, I got them all in order, over there.

I can say I was in the Boy Scouts, and I'm still in the Boy Scouts. I still enjoy that. I was president for approximately seven years for the Mahoning County Valley Council. [Is there] anything specific you want to know about my childhood?

G: You mentioned you grew up on the Southside. What was it like? When were you a child on the Southside?

B: Like I said, I was born in 1928, and, I think we moved, probably, when I was about ten years old. I think we moved at the time, because they sold the house we were living in, which made it pretty simple. Then, I attended grade school, like I say, at Lincoln School on the Eastside; and then, I went to East High School when I got out of there.

G: When were you in the Marine Corps?

B: [I was in the Marine Corps] from August of 1946 to March of 1948.

G: Where were you stationed?

B: [I was stationed at] Cherry Point, North Carolina.

G: What did you do? What were your duties?

B: Well, in there . . . since that was the aviation end of it. I was a metal smith. While I was as there, I made the basketball team, so we traveled all over the country.

G: You had a basketball team?

B: Right. Actually, when I went to East, I played basketball up there; and before I went into the Marine Corps, the coach at the time, was John Hunter. He said he could probably get me a scholarship to Ohio University to play ball. But, being the size I am today, there's no place in the picture today for a guard. . . . Now, they're six foot four inches and what have you. But, I did get to play for Cherry Point. We did fly all over the country.

G: No kidding! Where did you play?

B: We played North Carolina State. We played Eastern Carolina, which I see now, had a good football team this year. They are in the playoffs. We played all over the South and Long Island. We played mostly military bases.

G: How did you guys do?

B: Pretty good. We had to crash-land, too, coming back from those [games], which always makes me a little leery of flying today.

G: Wow! Tell me a little bit about your parents.

B: My mother and dad grew up in Meigs County, Ohio, which is Pomeroy. That is the boot of Ohio. [If] you go down [Route] 7 through Steubenville, you end up down in that particular area. My dad came up here from the farm. They were all farms at that time. They came up here, and they got in Youngstown Sheet & Tube. [That] pretty much took care of things in that direction, so that we became more from the Northern part of Ohio, rather than the Southern. Mom was a housewife, and Dad worked in the mill.

G: What did he do in the mill?

B: He was a heat treater. A heat treater ran different heats on different metals.

G: Tell me about . . . at the time, it was Youngstown College. Tell me a little bit about Youngstown College; and then, more particularly, tell me a little bit, or a lot, about as much as you can remember about the law school [and] what the law school was like.

B: Well, we were on Wick Avenue, up near the Butler Wick, on the corner up there. [It was] Wick Oval and Market. It was a magnificent old building, like all of them are up there. They were in business for awhile, until they had to comply with the American Bar Association's standards, which, at the time, called for a professor and three full-time teachers, plus a one million dollar library. I think, at the time, the library was in question, but, undoubtedly today, it is many, many times worth more than that. But, seeing that the crunch was there, it looks like financially for the college, it wasn't a paying situation. So eventually, as you know, they wound up the law school there.

G: What was it like? Tell me about some of your instructors.

B: John Newman was one, then Mr. Falls. Noels Wyatt was one of the old professors there that had quite a reputation for being a stern taskmaster. He had a habit of saying that when you come to his class, you put your title outside the door. So, he didn't really care who you were. If you couldn't make class, no matter where you were in any part of the country, you were to call

him and tell him you wouldn't be there. If you weren't prepared--he'd call on you to recite orally on the different cases--if you weren't prepared, he just threw you out.

G: In law school?

B: That's right. When he started class, when the door went closed, it was closed. No one got in. In fact, we had one fellow in our law school that was teaching at Youngstown College. He tried to get in, and was very unsuccessful. [Noels Wyatt] He told him [the student] that he didn't care who he was and to be there on time. I warned the guy. We had just got through with one class and to get up there. He figured that with his credentials that he could get in, but he was mistaken.

G: Was he a good teacher, though?

B: Oh, yes. [He was] a very good teacher. [He] taught you to really get up on your feet and talk. So, he was really, I think, preparing you for later on.

G: How would you rate the law school?

B: Well, according to the figures at that time, it was very successful. We had a high rate of fellows passing the bar examination. It was highly renowned at that time.

G: How did you do on the bar?

B: Just fair. Just enough to get by. I think seventy-five was the passing mark. I forget what I had. Not too much passed that, I wouldn't think.

G: But, you got by.

B: Yes.

G: You made it first try?

B: No, I made it second try.

G: How did that work? How long did you have to wait? How long was it in between?

B: I think it [was] about a year, at the time. I prepared myself by going down to Columbus and studying with a couple attorneys called Winer Miner, who ran a course to prepare you for taking the bar. It was a three-day exam. You went in before eight o'clock, and got started writing at eight o'clock. They took an hour off at noon; then, you went back at one o'clock, for another

four hours. Then, the next day, you started it over. I think, on the third day, you only went until noon. But, like the professor said, you better get ready because it's not only a test of what you know. It's also an endurance contest.

G: Did anybody drop out?

B: Yes. It would be funny. Some people couldn't stand the pressure of it. You'd look around, and that seat would be empty after you'd come back from lunch or something. Guys would have eyes on them like owls from nerves and being upset.

G: In between, when you didn't make the first time [and you tried] the second time, what did you do?

B: I think I was working in the mill at the time. I was working at Sheet & Tube, only Brier Hill.

G: What did you do?

B: I was an electrician.

G: Did you enjoy that?

B: Oh, yes. I was the union rep for our shop. I got to know quite a bit about the union activities. I kind of enjoyed that.

G: Tell me a little bit about that. That sounds like it kept you busy.

B: Well, in addition to working as an electrician and as a representative, if there was some grievance that would come up, it would be filed. Step one, you would really talk it over with your foreman and see if you couldn't work it out. Then, you had a second meeting if you couldn't with management, the higher-ups in management; and if you weren't satisfied with their decision, then you could ask for arbitration. But, because of the money involved, very few of them ever went to arbitration.

G: What did you do after you passed the bar?

B: Well, I was still working at Sheet & Tube. Then, when I passed the bar, I quit. Then, I came downtown. There wasn't too many people interested in me as a starting out attorney. I did start in the office with Don Hanni, which was also quite an experience.

G: I spoke with him. He was a judge, as well.

B: Yes. He went to Youngstown Law School, too.

G: Were you in classes with him?

B: No. He was about two to three years ahead of me. So, we really didn't have any classes together.

G: What were some of your early cases? With you and Attorney Hanni. . . . That must have kept you two busy.

B: He had a lot of cases. Then, I came down, and he threw me right into the ringer right away. So at the time, he had me take care of one of his divorces, right away; and I didn't even know what questions to ask. Old Judge Beckenbaugh was there, and his secretary was Ms. Rankin, over there, she kind of guided me through. She kind of ran the thing over there. So, I was able to get through that. He [Attorney Hanni] sent me over into Youngstown right away to try a shoplifter before Judge Nevan, at the time. Of course, that was disastrous for his client, too, because. . . . Although, he was guilty anyway. That's how it started. Most of my cases would be in Youngstown Muni, then [there was] a gradual developing. Then, [I put in] an application to go to the Youngstown Humane Society as their assistant counsel over there.

G: What did you do over there? What was a day like for you over there?

B: A day over there? I had regular hours over there. I interviewed people. The Humane Society, at that time, was not only the animal field, it was also the Children and Families Division.

G: Oh, really?

B: Yes. So, that I worked under the domestic relations judge. [Judge] Harold Rickert was over there. On Tuesdays, we would have contempt hearings. That was for those people that weren't paying their support/alimony orders. We'd go over there on Tuesday morning and decide whether they were really in a position to pay or just hedging. If it wasn't satisfactory to the judge, they sometimes ended up in jail. I would have a copy of their earnings, if they were working somewhere. A copy of that was in front of the judge, and he could see what kind of money they were making. Some people just didn't really care. In addition to that, I took care of all the illegitimate or bastardy proceedings. We used to call them disputed paternity cases, so that it didn't sound as bad. I also took care of all the reciprocal proceedings. Reciprocal is when the defendant or the woman is in a different state. They would send the papers in for us to process them here, to present them before the judge, to put on

a support order for their children. In addition to that, I would interview these people the day they would come in. They would report to me that they weren't getting paid and what have you. At that time, I would issue a number of warrants for their arrests. One for non-support, which was a misdemeanor, which would mean that they were subject to almost six months in the county jail. If they were real bad, under a neglect to provide, which was a felony punishable by time in the penitentiary. I did mostly non-supports. When wage assignments came in, it made it a little easier, because that way we could sign them up, and send the wage assignment out to their employer, who would deduct the payments automatically. They still have that today. In fact, it's mandatory under Judge Leskovyansky, now, that they have a wage assignment on most every case.

G: You mentioned two judges. . . .

B: Beckenbaugh, he was domestic relations judge, and later was replaced by Judge Harold Rickert.

G: Tell me a little bit about each of them. What were they like?

B: Beckenbaugh was a legend in his time, I guess, and of course, he didn't see too well. But, nevertheless, he was known as the women's judge. Most of the time, that was probably normal because the women usually get the children. The children go to their mother, for the most part, because the man is usually out working and can't take care of his kids anyway, during the day. So, I guess that's why it ends up [that] the custody goes to the wife so many times. Beckenbaugh was a pretty stern, but a pretty fair guy. Then, Judge Harold Rickert came in. He was a coach at Austintown for many years and had one of his teams go to the state finals. He was pretty sports-oriented. We would have long discussions about it [sports] before we got started in the morning, until he ran out of things he wanted to talk about, sports-wise.

G: Are you a big sports fan?

B: Oh, yes.

G: What is your favorite?

B: Oh, they're all my favorite. I watch everything, and listen to everything. Titl-E-Winks aren't really my favorite, but baseball, football, basketball, tennis, track. . . . I watch pretty much all of it. With ESPN

[television network] and all the programs now, I watch track; I watch the swim meets; I watch cycling. I'm not wild about the auto racing, but for the most part, I watch it all.

G: Why don't we talk a little bit about. . . . When did you first become a judge?

B: I got elected in 1971. I took the bench in 1972. I started in the Canfield County Court. I had the Canfield Court, and then I had the. . . . We have four courts: Sebring, Austintown, Boardman, and Canfield. So, I had started in Canfield; and then, I went to Sebring for about seven years. I took over Boardman for almost a year; and then, I took over Austintown. Although, I've been in Austintown probably nineteen years anyway, because when I started in Canfield, they needed help in Austintown. So, I've been sitting there. I sit there on Tuesday mornings, for forever, up to date. I have it over there now. We have court Monday, Tuesday, and Thursday in Austintown now.

G: In the morning, or in the evening?

B: Well, I have one on Monday night. I really don't like night court, but this saves a lot of people that have to work during the day. And, Monday nights is a bear, out there, now. You come out into the courtroom, and usually every seat is taken. According to last year's statistics, the Austintown Court did more than all the other three courts put together. We did 18,600 cases last year. Instead of a crossroads court, where it started out with the J.P. [Justice of the Peace] and that, now, it's really got that big.

G: Eighteen thousand cases?

B: Yes.

G: Okay. There is a world of questions with that alone. I know in the city of Youngstown. . . . What is the title of those courts? Regional Courts?

B: The Mahoning County Courts.

G: Okay. County Courts.

B: County Courts, yes. We're part-time. They never made the county courts full-time, so a county court judge can also practice law.

G: I was going to say, "That's why you are allowed to keep your law practice?"

B: Right.

G: So, if they were full-time, would you be required to live in the district that you were presiding?

B: Well, I'd have to live in Mahoning County.

G: Oh, just Mahoning County?

B: Right. However, for county judges, Youngstown, Campbell, Lowellville, Struthers, Poland, New Middletown, and New Springfield are excluded.

G: Okay. That makes sense. It's a County Court. What were the majority of the cases?

B: Well, traffic is a big one out there. We have [Interstate] 680, and [Route] 11, and [Route] 46.

G: That's the majority of the cases?

B: Oh, yes. We have criminal, civil, and traffic; so we have the whole gamut, as far as cases are concerned.

G: Okay. Let's run through a typical day for you. Let's say, today. Today is Monday. So, let's go through a typical day.

B: Well today, being Monday, I'm here talking with you. When I'm through, I'll proceed to start the work on my own cases, here, that I have as a practicing attorney. When I go home tonight, I'll have supper; and then, dash off to the county court out in Austintown. I'll try to get there a little early to take care of some of the paperwork and talk to some of the people that always seem to want to talk to you before you get started. Then, we'll run through the cases. When I sit down, I don't get up to go to the restroom or answer any phone calls, and I sit there until I get the entire courtroom empty. I understand the people don't want to be there, so, as soon as I can get them in and out, I try.

G: What time do you get to Austintown?

B: I try and get there around six forty-five, at least; and then, [stay] as long as it takes to get done.

G: How long does it usually take you?

B: I try to get done in two hours.

G: Are you usually successful?

B: Yes. Usually, unless. . . . Sometimes we have to try a case. I would rather try them on Tuesday mornings.

That way, if I don't get them completed, then I'll come back after lunch, and we'll go on from there. Of course, during that period of time, jury cases come up. People have a right to a jury, and we have to have jury trials. We set down, at least two times a year, for jury trials. The assignment commissioner here at the Mahoning County Common Pleas Court, they have the drum. They pick the names out, and they give us the prospective jurors. From there, we take that list and proceed.

G: What was the worst criminal case you ever had to give?

B: I think probably. . . . Well, there was a couple of them. I wasn't too happy with the one where the guy cut the woman's throat. But, I think the most . . . probably the one that got to me, or at least I felt the most, was where the guy was out on Kirk Road Extension and, I guess, the boarder killed him and buried him in the basement. When the family, the sons, looked into it, they went down in the basement. When they saw what was happening down there, they started to run. One got shot in the back, and he was paralyzed. I actually had to try that case up in the hospital--it was at one of the hospitals where they had a special wing in a room where I held the proceedings up there--because the young fellow that got shot was fairly well paralyzed and was in the hospital receiving treatment.

G: How do you deal with something like that?

B: Judicially.

G: Okay. What does judicially mean?

B: You afford the defendant all the rights that he is to receive, as our Constitution sets out. You're not guilty until proven otherwise. You have the preliminary hearing. During that period of time, it's up to me to decide if there is probable cause and bind them over to await the action in the Mahoning County Common Pleas Court, and to pursaunt to indictment by the Mahoning County Grand Jury.

G: Something like that, it would bother me a lot. How do you deal with your emotions?

B: I pretty well call them on for hearing, and [then, I] sit there and listen. I don't show much emotion anytime.

G: It doesn't get to you, though?

B: No, not particularly. You can't be happy with it, but the idea is to proceed as carefully as possible so that

there is no error committed. You don't want to see someone who is really guilty get away on some technicality.

G: On civil cases, what do you usually do?

B: Well, we have the small claims. Anybody who has a claim up to $2000, now normally files on their own; and this way, they can handle their own case, without need to put out money for legal expenses. Most people do. Although, occasionally, somebody hires an attorney, which makes it a little unfair for the other side. I don't let that [hiring attorneys] get out of hand, because they [claimants] can ask anything. Procedurally, I'm not going to sit on them, unless they are trying to use hearsay or something, or what they know personally. Normally, it's some money judgment--they've been hit, and the guy didn't pay. . . . By hit, I mean by in their car. You have a lot of them in for rent that they haven't paid; and a lot of them, what we call the forceable entry and detainer, [which] is really where the landlord is having them ejected from their premises. But normally, they're not paying.

G: This is just a small sideline. How much, when you first started in Canfield. . . . Did you have a small claims court?

B: Yes.

G: How much was small claims, then?

B: I think, three hundred dollars. Then, it went to five hundred dollars; and then, it went to a thousand dollars. Then, we have the normal civil docket, where you can sue up to three thousand dollars, now. They keep threatening to make that higher, too. I think [that] probably will come, eventually. I think probably the courts will become full-time, too, eventually.

G: When do you think that will happen?

B: I don't know. The present Justice, Moyer, from the Supreme Court, had that on his agenda. But, I guess, the many ramifications to it kind of holds that up. Not only would we be talking about a judge getting paid more, but where would the courts be, and how many courts would you have? Who would be the judges that [would] stay?--probably the ones with the longest tenure. How many would there be? They talked about consolidation for a long time. At different times, [there are] different plans. At one time, they were talking about making everybody a division of the common pleas court, so that comes up from time to time. They

have Mayor Courts. They have been trying to knock out Mayor's Courts for years, but they haven't been too successful. But, I understand they have an awful powerful lobbiest group. Under the Mayor's thing, you don't have to be an attorney to hold a Mayor's Court.

G: If the court became full-time, would you stay on? Would you go full-time as a county judge?

B: Oh, yes.

G: Which do you prefer? Your duties as a judge or your duties as an attorney?

B: I kind of got the best of both worlds.

G: So, you don't have to make a choice?

B: No.

G: When you are deciding a case and you get somebody who has a bad attitude towards the court, towards the system, and towards everything else, how do you deal with that? Does that affect how you sentence him?

B: It should, but it doesn't. I try to keep my cool and listen to it, and [I] try and picture myself in that situation. It takes an awful lot to get me rowled up. I'm not vindictive. I handle them all just about the same as I would any other ones.

G: Which is?

B: Which is, what?

G: How do you handle them?

B: Well, I proceed just like I would on any other case. I don't try and pick on personalities. I don't have attorneys that I don't like, and I don't have people I don't like. Naturally, you have to get them straightened out. I have had them. I just say, "Hey. . . ." Normally, they are usually the ones that are in jail when they come there. The Mahoning County jail has them transported out there, and I usually have, from . . . I would say normally, out in Austintown on a Monday night, like from four to ten different people that are in jail for some reason or other. Normally, they get picked up on the weekend, and I get to see them on Monday night or Tuesday morning, for the most part.

G: Conversely, if somebody comes in there and is just super-nice, and super-polite, and super-everything else, does that affect. . . ?

B: Why sure. If you don't have a negative attitude, I would feel more inclined to help these people. Most of them are there for the first time in their life, anyway. Most people have only been in court on a traffic violation once in their life.

G: You've been on the bench, now, twenty years. Have the criminals gotten worse?

B: Well, I would think so. With the drug picture in there. . . . Like on the Blevins and the Drake case. Police came to me to get a search warrant, because they couldn't get in. It was obvious . . . well anyway, I thought it was obvious that there was no tracks out of the place in the snow for a couple days. They suspected something, too; that there was something the matter. So, they got in there. That was a pretty bad case. The guy was tied up with duck tape and stabbed so many times, and the knife was so poor [that] it bent. The dog was there and actually lapped up some of the blood. That is kind of gruesome. It's got to get to you a little bit, when you are concerned with people. . . . Think how heinous that crime was.

G: But, you don't think the criminals have gotten worse?

B: Well, if you kill somebody, you were just as dead back then, as you are now. So, yes. The drug picture may have it where many people aren't under their full facilities. As far as being worse, like I say, once you're dead, you're dead. Yes, the crimes are bad, but I would say they're on par with any other time. [There are] more robberies now, because of the drug angle. People, where they have the urge to get the money for the cocaine or whatever they're on, it makes them take more chances. I think it makes our crime picture much broader.

G: So, you would say, not necessarily. . . . Have the crimes gotten worse?

B: Well, the crimes are still the same. Sure, they are still in the books--the statutes--which covers most instances.

G: Do you think they are becoming more numerous?

B: Well, our statistics show they are on the rise. Just look at Mahoning County this year. That doesn't mean they are coming through my court, but they are going through the court system somewhere. Yes. Look at us now. What--fifty-six or fifty-seven--wherever we're at now? The highest rate ever, we've ever had.

G: In your opinion, is there any way to curb it?

B: Well, it's going to have to take somebody that. . . . The people that are in a position to do something about it usually make a campaign promise that they are going to start to curb crime. But, it takes the dollars to hire the people to put them on the streets. The cops--I'm talking about; the policemen--I think the last time I took stock of the Austintown, I think they had forty-two of them in the Austintown Police Department. They do a pretty nice job. But, that's where it's at. Hiring more people. I'd like to go back to the days where they had officers walking the neighborhoods. That's utopia. How far does it have to go before they take more dollars to put more people to work in the police departments or in law enforcement in some categories?

G: Do you see it ever getting better?

B: No. I don't. We have more people. Of course, in Mahoning County . . . I've got to take that back, now, too, because Youngstown's population. . . . Well at one time, Youngstown was the fifty-ninth largest city in the United States. I think they're close to 160,000. According to the statistics I seen in the paper over this weekend, it was down to 95,000. So, you can see that we're losing out, there, in that direction. Undoubtedly, the closing of our mills had a heck of a lot to do with it. The majority of those people were working there in the steel mill, or at least, related steel mill jobs, that supplied it in different departments, the different things that the mill would need.

G: One more question. How do you learn to be a judge? Through experience?

B: That's right. You learn to be a judge by getting elected. When you are elected, you go into the boiling pot, so to speak. It's kind of with trepidation that you do.

G: Trial and error?

B: It's trial and error. But, of course, if you've been practicing, and there is a requirement that you've been a practicing a attorney for so many years. . . .

G: How many years? Do you remember?

B: I think it's different. I think for the county court, you only have to have been practicing two or three years.

G: Okay. Thank you, sir.

B: You're welcome.

END OF INTERVIEW