

YOUNGSTOWN STATE UNIVERSITY

ORAL HISTORY PROGRAM

Judges

Personal Experience

O H 1437

MICHAEL A GERCHAK

Interviewed

by

Michael Graham

on

December 11, 1991

## MICHAEL A GERCHAK

Michael A Gerchak of Canfield, Ohio was born on May 27, 1931 to John and Mary Gerchak of Youngstown, Ohio Judge Gerchak attended school in Youngstown, but during World War II, his family moved to Fowler, Ohio At the end of the War, Judge Gerchak returned to the Youngstown City Schools and graduated from South High School in 1948

Upon graduation, Judge Gerchak entered the Air Force where he worked as a clerk He was honorably discharged on May 28, 1952. Judge Gerchak returned to Youngstown, and enrolled in Youngstown College He graduated in 1955 with a Bachelor of Science degree

Judge Gerchak enrolled in the college's law school, and was a member of the second to last class which graduated from the law school He worked in the Law firm of Scherifs, Jones, and Moore, until he began his own private practice

In 1981, Judge Gerchak was elected to the Mahoning County Judgeship, a position he retained for ten years, serving on the Boardman Court Judge Gerchak has recently closed his private law practice because of his assumption to the Mahoning County Common Pleas Court

Judge Gerchak and his wife Amelia have four children, Anthony, age 31, James, age 29, Rebecca, age 27, and David, age 25. The judge attends The Immaculate Heart of Mary Church, and is a member of the American Legion, the Eagles, and the Knights of Columbus He enjoys golf

MG This is an interview with Judge Michael Gerchak for the Youngstown State University Oral History Program, by Michael Graham, at his office in Youngstown, on December 11, 1991, at 2 00 p m

Let's begin with something not too difficult Why do you not tell me about your childhood, growing up, where you were born, things such as that?

MAG Alright, I am one of seven living children, next to the last And, I spent a real varied childhood, most of it from the south side of Youngstown Although, for about six years, I lived on a farm in an area called Fowler, Ohio, which to me, was probably one of the most pleasant interludes in my life I lived in an era where it was not unusual for kids to work their way through high school, let alone, through college So, I played high school football and baseball at South High, and worked in a variety of places, including a fish market in downtown Youngstown I worked for a defunct grocery chain, at that time known as the Century Foods, while I was in high school Spent a little better than a year and a half in the U S Air Force, and was discharged honorably I tore up my knee while I was in the service, and Uncle Sam decided it was more expendable to discharge me than it was to continue to treat me.

So, I was discharged and immediately started college. Prior to that time, I had worked for the Youngstown Sheet and Tube, for a very, very short time And immediately upon returning from the service, I went back to my old job which, at that time, was U S Steel--or, not U S Steel, but Youngstown Sheet and Tube But, the Wire Mill in Struthers where I worked the afternoon turn and went to school, had eight o'clock classes Usually had the classes from eight o'clock until, usually noon, caught the bus, came home and my mom made my lunch, and I caught a bus and went to work And, fortunately the job was of such a nature that I got about three or four hours free time during the day to do my study

After graduating from college, I went to work for the Federal Government as a bank examiner for a period of about nine months. I also started law school at Ohio State However, when they found out that I was also a law school student, I was requested that I had to choose I had to either drop out of law school, or resign my position as a bank examiner I chose the latter at that time I ultimately finished my law degree at Youngstown State University, and we were the next to the last class from Youngstown State Law School Actually, we finished our course of study in March of 1959 We got our degree in June of 1959 And we took the bar examination in July of 1959 I was admitted in either September or October of 1959, where I practice law, in Mahoning County since February of 1960 Well, in law school I worked for Allstate Insurance Company as a claims examiner for approximately the last two years of my law school I worked for them until February of 1960, at which time, I then joined the law firm, at that time known as Sherifs, Jones, and Moore in the Mahoning Bank Building I remained with them until such time as Mr. Jones was elected to the Court of Appeals, and Mr Sherifs retired, I believe, in 1965 or 1966 Mr Moore retired in 1967 or 1968, and I

became the sole attorney in the firm at that time. I continued practicing law as a sole practitioner from 1960 until June 1, 1991

In 1980, I was elected County Judge and I spent 1981 and 1982 as a county Judge in Sebring, Ohio. I then moved to Boardman, Ohio, to the Boardman County Court in January of 1983. And I stayed there until January 7, 1991. I was elected to the Court of Common Pleas, to the Fifth Judgeship in November of 1991. The office was effective July 1, 1991. I concluded my practice on June the 1st of 1991, closing my office that year after approximately thirty-one years of active practice. My practice consisted of basically civil litigation. I did no criminal work for the last, at least, ten or twelve years, mainly because I was a County Court Judge and I felt that it was inconsistent and somewhat of a conflict with being a county judge. So, I deferred any criminal work, and maintained strictly a criminal practice, or a civil practice. My practice consisted of doing what we normally refer to as insurance defense work for several companies in the tri-county area of Mahoning, Trumbull, and Columbiana County with, occasionally, going over to Summit, Portage, and Star County. It was a very pleasurable experience for me, and I've been sitting on the Common Pleas bench since the 1st of July of 1991.

MG. Okay, let us go back a little bit. First of all, what did your parents do?

MAG My dad had a variety of jobs. I think the last job that my dad had was with the city of Youngstown and the Water Department, where he had worked for four or five years. My mom had never worked. And, we came from a close knit family where we all helped one another. I have three other brothers and three sisters. And, even to this day, we are a very close knit family, assisting one another whenever the occasion arose. It was not unusual in those days for the children to contribute to the household well being, financially. And as they got married and moved out of the house they no longer did that. But those that remained continued to help with the household expense. In fact, while I was in college and living at home, I was required to pay room and board, the same as my brothers prior to me who did not go to college did. I am the only college graduate in my family, mainly because I was the next to the last and with the help of my brothers and my sisters, I was able to do it. But my dad probably had a fourth or fifth grade education in the old country.

I am a first generation. My dad was born in Poland and my mother was born in Czechoslovakia. One of the most rewarding things in my life was in 1989, my brother and I and my nephew made a return visit to Poland and visited Aunts and Uncles of my dad. If my dad were alive today, he would be--well, 1899--he would be a hundred and two years old. Actually one hundred and three in February, because he was born in 1899, so that would have made him a hundred and three years old. My dad lived to be a ripe old age of eighty-six, I believe, or eighty-six or eighty-seven. My mother died at an early age of fifty-one. But, I grew up in an area which is called post-Depression. I was at the end of the Depression era. With the advent of World War II in 1940, I was approximately nine years old at that time. And that was basically the end of the Depression, so to speak. We were tainted somewhat by our experiences during that

period of time

MG When were you in the service?

MAG. 1950 through 1951

MG What were your duties?

MAG Actually, I had a multitude of duties I played a little bit of service ball, and that has happened to be where I hurt my knee more than anything else And, after that, I had gone through Airplane Engine School, in a place called Wichita Falls, Texas I was transferred from there to an administrative job as a One Assistant Post Master. I was the third man in charge of the post office for the air field at Wichita Falls, Wichita Falls Air Force base, which at that time had approximately fifty or sixty thousand men And, we used to get tremendous amount of mail for processing And it was not automative, such as it is today. It was my job to make sure that the mail was distributed. And, it was a very pleasurable job for me Unfortunately I did not get a chance to go Korea at that time, because most of the fellows that I had gone to school with shipped off to Japan And because I was having a reoccurring knee problem, I was being treated by the base I had surgery on my left leg, and they did not want to operate on my right leg, my right knee I was given a medical discharge in 1951

MG What sport did you play?

MAG Football

MG Football

MAG Yes Football, and in the service I played basketball I hurt one knee in basketball and one knee in football In those days they had a tremendous rivalry amongst the services Not any more, but at that time, most of the big bases had athletic teams, basketball and football both I do not recall anybody having any baseball teams, but we all had basketball teams and football teams. The one Air Force base that I had left in East St Louis had played the Marines And the Naval Station at Pensacola Many of those teams were college graduates at that time, and pro players who had been drafted or enlisted in the Army It was a very interesting period for me, anyway I enjoyed it I never got a chance to see combat, but that did not upset me that much.

MG Tell me a little bit about the law school, YSU's, or actually Youngstown College's

MAG. It was Youngstown College at that time Having gone for a period of time to Ohio State, three semesters, at that time, I did not find it too much different, except that the classes were much, much, much smaller There was much more time and much more

communication between the instructor and the students. In fact, you had to be prepared on a daily basis, because you were going to be called on a daily basis. I think when we graduated, our class had fourteen, fifteen people in it. Had I stayed at Ohio State, the class would have had about three hundred and fifty. The instructors all knew you on a first name basis, and you were called upon frequently for recitation in class. You were required to do the same thing. It was a night school at that time, but it was an accelerated night school. Because, I started in September of 1955 and graduated in March of 1959. My graduating class from Ohio State in 1955 would have been done in June of 1958. So I was approximately nine months behind as a result of that. But we took the same bar exam as everybody else did, and we had an excellent passing rate. Youngstown was traditionally in the upper seventy-five percent of the passing grades on the bar exam. I do not know if it was because of the education or your scholarly pursuits were along those lines or what, but we had an extremely good passing ratio in the bar, which is something that some of the bigger schools did not have. I felt I got a quality education at YSU.

MG Tell me about some of the instructors.

MAG One of the instructors happened to be a common pleas judge--Judge Erskin Main Jr. Ray Falls was a teacher there. John Newman, who is still practicing law today, was one of our instructors. Noles Wyatt was one of the instructors, and Noles was the very, very hard case type of professor. If you were not prepared to respond in his class in an intelligent manner, he would toss you out. We had some students in our class--at that time because it was a night school--we had some students who were forty and fifty years old that were Second World War Veterans. And for them to be tossed out because they were not prepared was somewhat of an ego thing. So, everyone came prepared for Noles Wyatt's class because they did not want to feel the wrath and be tossed out of class. The law school was where the restaurant is now, the old house across the street from the Media Center now.

MG The Pollack House?

MAG The Pollack House, yes. Yes, it was the William B. Pollack House. At that time it was not as big as it is. And that is where the law school was. We had the entire second floor. Law school was twelve months a year. It was not nine months. We were on the semester basis, and they were quarterly semesters, every three months. So, you got no time off. It was twelve months a year. Law school was twelve months a year. There were no summer vacations, such as you might have in college, or somewhere else. But most of the gentlemen that I went to school with remain around town. Gollie, there are so many of them, you know. I mean, Youngstown traditionally used to have, used to graduate probably fifteen, at most, on an annual basis. And those fifteen were easily simulated into the private practice in Mahoning County. I still see some of my classmates that I went to school with.

MG Why did the Law School close?

MAG Well, at that time, YSU did not have ABA Sanction That is the American Bar Association sanction. And in order to do so, they had to hire a full-time faculty We had started on that. I think Youngstown had hired, in our last year and a half, had hired four full-time professors However, in addition to that, there was a requirement of a Law Library At that time, Youngstown had the old library, which--I do not know whether it was torn down or not I know they have the new library which faces onto Wick Avenue Prior to that, they had built another, rather substantial, library up where the Beeghley Center is, or across the street from where the Beeghley Center is And, I think they may have demolished that one, and built something else there But, in any event, they were not willing to give up the space The Library Association, the Association from the University, was not willing to give up the space required for a Law Library And there was a heathen cry that we were pumping out too many lawyers at the time Akron Law School had started recruiting students So, as a result of that, the Board of Trustees felt they could close the Law School, and they did in 1960 That was the last year I think the last graduating class was 1960 at YSU

MG Where did you live in Vienna?

MAG I lived in Fowler, actually

MG Okay

MAG A place called Tyrell Hill Are you familiar at all?

MG I used to live in Vienna What did your family do out there when they moved out ?

MAG Well, my dad worked in town My brothers worked in town, and we ran a small farm At that time, I think, there were about eighty some acres We had a half a dozen milk cows, and we sold milk My mother and I and the family raised chickens We raised our own food [We] Had a small orchard [We] Raised our own grain. You know, family stuff like that Potatoes and stuff like that, and sweet corn We did sell sweet corn, because my dad started raising sweet corn. And then during the Summer, the end of Summer, we would drive into town and sell sweet corn out of the back of a car. You went to what, Brookfield?

MG No, actually I went up to school in Milton Yes, we moved away from there probably ten years ago

MAG Well, I used to go hunting up there, so I knew everybody There were about seven or eight Bradley boys They used to have a nursery on Kings Grave Road Kings Grave or Southern Hutchens? Southern Hutchens runs what, North and South, and Kings Grave

runs East and West? Yes Okay, yes, Warner Road and Kings Grave is Five Points And, Southern Hutchens, that's what I lived on I lived on Southern Hutchens Road, which is actually the next road over from Warner Road And, at that time, we had a railroad train that ran through The New York Central ran through our property I have not been hunting in five years But the last time we were out there, all of the tracks are gone The spurs, you know There is no more railroad

MG Were you living out there when the railroad ran?

MAG Oh, yes Yes, yes. In fact, we lost a cow to the railroad Because, our pasture was divided by the damn track. We had about eight acres on the other side of the track, which is pasture land And, my dad, sometimes when we turned the cows loose in the morning, we had have to actually move them all the way across the track, drive them across the track, close the gate. One of them got out somehow or another. And the train hit it and wacked it That was the end of the cow But the railroad had a right of way through part of our property It was interesting, you know, as a little kid I was in grade school at that time And, as I said, the formative years of your life--if they are realistic--you have a different outlook Things of nature do not bother you as much as they do city kids, you know It was nothing for me to kill a chicken, because that was part of our routine Kids in the city would never think of killing a chicken So, it was a lot of fun It was a hard, austere life in those days, you know We went to Fowler High School, Fowler School actually It is now a grade school, part of the Matthews School System But, at that time, it was one through twelve

MG What grades were you in when you went?

MAG I was there for the second, third, fourth, fifth, sixth, and half of the seventh.

MG Why did you move back?

MAG The war was over My grandmother had died. My mother was left as part owner of her house on the south side of Youngstown in Lancingville An area, if you are familiar with where that is at, that is up off of Indianola My mother got tired of living on the farm, and didn't want to stay anymore So, we sold the farm and we lived in my grandmother's house for about a year and a half And, we moved to the lower Southside where I went to Hillman Jr. High, and South High School

MG Did you play any sports in high school?

MAG Yes, I played football and baseball

MG You played baseball?

MAG Yes

MG Okay Let's move on a little bit Why do you not talk to me about your early career, your early law career How did you feel on your first big trial case?

MAG Very nervous, as most lawyers do I was fortunate, in the sense that I came into a law firm that needed somebody to do the work, basically. You know, Mr Sheriffs did not go to court And, Bo Jones had all he could handle And, Mr Moore ran a tavern across the street called Moore's Tavern at that time And Joe was more interested in being a musician and a bar owner, than he was in a lawyer So, I got to do all the legal work And, I got my feel real quick and my experience because I was--I think I had been with them a week and a half, and they threw me a file and said, "Go try this case " Needless to say, it was quite a traumatic thing, because in law school they taught you the technical aspects and the book learning without the practical experience I did not know where to go, basically I had to ask people, "Where is court room number three?" And, "Who is the judge?" Of course, when the judge found out that this was my first trial and that I had just been a lawyer for six months, there was an awful lot of preferential treatment to me And, he would object when I did not make a motion, or did not object. He would sustain an objection that I did not make, to make sure that my tail, my skirts were covered But, it is a business you learn and you mature into, because it takes a while to get that experience Different courts require different attitudes, and you learn the nuances of the judge, what he expects and what he does not expect And you have to earn your respect that way from him They are not going to give it to you unless they know you are a worker. And, it forces you to be a worker if you are going to try cases It was very rewarding I would practice a lot It takes a lawyer approximately, in those days, five to ten years to develop a decent practice where he made a decent living out of it I was fortunate, in a sense, that I was with a firm that had a lot of work and no workers And, when Mr Sherifs retired in 1968, I ended up with the whole ball of wax in my own lap It was a God send to me. It was very advantageous to me, because I was able to make a very decent living at it

Then I got the political bug Kind of like as a lark Someone said, "Why do you not run for county Judge?" And, I decided to run I ran and there were six guys, three incumbents, and three other candidates Out of a field of six, I ended up sixth And then Judge Zilotnick ran the next two years later, and there were four county Judges Three of them ran at one time, and one ran separately. When Mr Zilotnick's term came up, somebody else talked to me and said, "You got to run You do not want to waste all that time and money you did in the last time." Kind of like a half-hearted thing, I decided to do so And in this event, this time I spent a lot more I spent a lot of my money doing media advertising And spent more time basically campaigning I was very successful at it I beat an incumbent Then got re-elected Then, got elected to this job in November of 1991 There were six year terms

MG Are you interested in politics?

MAG No, I am not interested in politics. Judicial candidates have a hard time being politicians, because it is a non-partisan ticket, of course when there is a primary And, you have to politic to win, because you have to get votes to win, and you cannot get votes to win unless you politic

MG Is that difficult?

MAG Yes It is hard work Given what I know today, I am not sure that I would do what I did You know, because I thoroughly enjoy the practice of law, and I think it is kind of like a challenge It is just another challenge and, had I not won, I do not think I would have been broken hearted by any stretch of the imagination Having won, I do not know what I-won You know, the Common Pleas bench is a much slower pace than I had been used to

MG How are you adjusting?

MAG Reluctantly I am looking for work constantly. Because of my nature I worked my way through high school, worked my way through college, worked my way to law school And, as a practicing lawyer, you can expect anywhere from sixty to eighty hours a week Work Saturdays, if necessary, Sundays, if necessary, and what is necessary on more than one occasion And, you get into that work ethic of constantly having a progression of things to do Here, you are at the mercy of the assignment office who sets your cases for you, and you have no control over that. And, when cases are either settled or continued, you have nothing to do during that period of time, except to review paper matters that are before the court, which I do continually It is not a very interesting. And sitting on the bench and listening to lawyers present their cases, the only interest you have as a judge is to make sure that the rules are adhered to You have no financial interest, no competitive interest in the outcome of the case It makes it a little more difficult Especially, if you have always been a competitive lawyer Now, you are in a noncompeting role, totally Non-adversarial, for that matter I mean, you are supposed to be independent and unbiased It is difficult to sit there and sustain concentration So, I do a lot of my paper work while the trials are going on, which is not unusual. I find a lot of the other judges do the same thing

MG Do you find it difficult to remain impartial sometimes?

MAG Sure Sure you do. Sure In civil cases it is not so bad because I do not have any input into the decision That is mainly and basically the jury's problem to decide the facts The judge just supplies the law, and that is really not all that hard But, it is difficult sometimes to maintain that independence that you have to get Because, you know, lawyers who I have known all my life come through the court system and I have eaten lunch with them, gone out with them, played golf with them, do all of those things And, now suddenly, I am supposed to divorce myself from them It is very difficult to be

totally unbiased and independent. It is difficult that way. But you school yourself, at least, to maintain as best you can, you know, that posture. I try never to be dishonest. I think, you know, if you have the philosophy of being treated the same way as you would like to be treated on the other side of the bench, I think that is about the best philosophy I try to do that. I tell the lawyers, "Look, I am not going to give you any kind of treatment except the same I would expect if you were sitting here and I were standing there. I am not going to give you any advantage, nor am I going to create a disadvantage for you." I think lawyers appreciate being treated fairly. Nobody wants to be given preferential treatment. Because, you do not get it from all the judges. You got to deal with all of them. You are fair to an individual, that is basically the judge's job. Just maintain that doctrine of fairness.

MG. Let's run through a typical day for you. Start out with, you know, when your alarm goes off, until you go to sleep at night. Run through a typical day.

MAG. I will give you an example of today. We had a jury trial, as you know. You were in here yesterday, or the day before, or whatever day it was. Today is what, Wednesday? You were here, what, Monday?

MG. Monday.

MAG. We started on Monday. Normally, I arrive here about 8:20 in the morning. Court starts at nine o'clock. We usually, many times, have hearings scheduled at 8:45 a.m., such as a conference with the lawyers, when they have a plea or a small hearing that may only take fifteen minutes. But, the court starts, basically, at nine o'clock. This morning I got here about 8:15 a.m., mainly because we were involved in a trial. I had prepared the law charge for the lawyers on the other side yesterday afternoon while they were conducting their trial. My secretary had typed it up. [She] Made copies for them. And when we closed last night, I gave them a copy of the court's charge that I would give to the jury, upon completion of their case.

I was reviewing that in the morning. I had one or two hearings before nine o'clock. We usually start the court about 9:00 a.m., 9:10 a.m., 9:15 a.m. Jurors are required to report here at no later than 9:00 a.m. This morning, at about 8:30 a.m., we had a committee meeting for the Bar Association--of which I am a member--at 8:30 a.m. at the Bar Association Office. So, I was about five minutes late. I got there about twenty-five to nine. [I] Stayed there until about nine o'clock. [I] Came back to the court, at which time I was notified by one of the attorneys that there was a distinct possibility that this case could be settled, that they were not that far apart. And, would I sit down and attempt to resolve some of the monetary problems that the two lawyers were having, which I did. And then, one of the lawyers asked me if I would talk to his client to let her know what the court's posture was. And, I did that. That took until about 9:30 a.m. I then brought the jury back in and discharged them at about a quarter to ten.

Judge Economou was not here this morning. I took a plea on one of his cases. I

had a sentencing. I had three sentencings this morning on cases that had already had pleas of guilty on them, and which, we were waiting for what they call a pre-sentencing report, the PSI report. In which instance, one of the investigating bodies, either the adult parole, or the community correction, runs an examination, and decides whether or not the defendant is worthy of probation or should be incarcerated. I think I had three or four of those. We had another hearing scheduled, and the defendant failed to show. The court issued a bench warrant for him. That took us up to just about noon time. I went to lunch at about ten minutes to twelve. I went over to the YWCA and then came back. [I] Had a light lunch, and came back here at 1:30 p.m., and found out that the case that we had scheduled for this afternoon had been continued. I had two or three conferences with lawyers on other cases. And, I spent my time reviewing additional filings on cases, and making rulings on those to give to my secretary to type up the entries and notify the other parties, at which time, you contacted me and we set this time aside.

Normally, I will leave here about four o'clock. However, I am going to leave here as soon as we are done because I have another appointment out at the court this afternoon. Then I will go shopping with my son this evening and probably watch television until about 10:00 p.m. or 10:30 p.m. and go to bed. Not a very exciting day. I think had the trial gone on, we would still be in trial this afternoon, because one of the doctors could not be here until this afternoon. It does create a problem because we are unable to control our own dockets to the extent that I am not in a position that is, you know, mainly because of the very nature of the work. Keep that many lawyers on a string, so to speak, to make sure that we always have a trial going. You just cannot keep that many lawyers on a stand-by basis, and that is one of the draw-backs and one of the reasons why our docket gets cluttered, so to speak.

MG: I realize you cannot go into specifics, but what was your role this morning? You were just a mediator? What exactly do you do in an instance like that?

MAG: One lawyer came in and said, "Judge, we are about three thousand dollars apart. I have some room to work. I can do something to expedite the settlement of this case." He said, "It is not a real big case." But, he said, "It is going to take another day to try it, and I have to bring an expert over here from Pittsburgh who will probably cost me two or three thousand dollars to testify. If I can keep him from coming over, I will not have to pay him that kind of money." The lawyer on the other side, I brought him in and asked him if there was a possibility that we could bridge the gap where the difference is between them, and he said, "There might be." And, we discussed it for about twenty minutes, the pros and cons. I told him what our past history had been with jury verdicts in this particular courtroom for the last two or three months. Then, he indicated to me that he would recommend it to his client, but, would I also then talk with his client.

I spoke with the client, and told her that the atmosphere in this courthouse is that they are not giving a lot of money. And, that this was the kind of case that she probably should settle if she felt comfortable with that sum of money. The plaintiff in this case needed the money, this being the Christmas season, decided that, rather than gamble on

what a jury may or may not give her, decided to accept that amount. It was not a very large amount, but to her it was. And, she needed it. So, it took some movement by the court to, not so much to convince her, but to impress her that there are no sure things in this world. And, jury verdicts have been somewhat on the low side in this court for the last several years. She was not going to get any large sum even if she were to be successful, and stood the risk of losing it all.

That is what the judge's function is to do. Basically, it is to encourage as many possible settlements as he can. They tell you that the criteria for a good settlement is when neither party is satisfied. When neither party is satisfied, that is the criteria for a good settlement, because neither party has gotten what they wanted. And, that usually means that there has been a lot of compromise. Then, the other issues are where the defendant has already entered a plea and, as I have indicated to you, we send them to one of those agencies for a pre-sentencing investigation. When that comes in, we schedule them for sentencing. It does not take very long to do that. You read the defendant his rights, and make sure that he fully understands what is going on. And then, lawyers file constantly, motions with the court that the court has to rule on.

When I am not sitting on the bench, or even when I am sitting on a bench, I will be ruling on motions and writing notes to my secretary as what to do on this particular file, and to set it up for a hearing or to this, or to do that. It is on a daily basis. There are days in which we are very, very, very busy. Where, we may have hearing scheduled, or conferences scheduled every fifteen minutes. I may go through twenty conferences in a day. There are times in which I may go through five conferences in a day. But, you are never for a loss at work. There is always something to be done. It is not exciting, but it has to be done. You know, reading briefs, and listening to lawyers arguing what the law is or is not, and the facts, sometimes is kind of boring. But, you know, somebody must make a decision, and that is what they pay me.

Basically, when you are in trial, it is a different ball game, because then you are teed up to making sure that the juries are taken care of, your bailiff gets those things taken care of, gets the jury back and forth. And, make sure that the lawyers proceed in an orderly manner, because you have to prompt some of these fellows. They get a little slow and they want to drag things out, and it is my function to move them along. And so, I am constantly after them, making sure that they have their witnesses subpoenaed, and make sure that I have prepared my end of the trial, which is the instructions to the jury. I get input from them, and then I will have the instructions of law typed up so that they have a copy and I have a copy, which I read to the jury.

The day is a little bit different when we have an active jury trial going, because then, you are constantly monitoring it. But then, even at that, you interrupt the jury trial to take a plea for another judge, or a sentencing for another judge. The judges will cover for one another that way, when we are indisposed, you know. But, it is quite a variance from the active practice of law where you are in an adversarial position on every issue. I mean, as a lawyer, you are always going to know the lawyer on the other side. There is always somebody disputing your version of the facts, or your version of the law. It is totally adversarial that way. Here in the court, it is non-adversarial from my part. I am

neither an advocate, nor a proponent on either side. If they try a case to the court, a non-jury case, then of course, I hear both sides. And, then I must make a decision based upon the evidence, rather than having a jury do that. Most generally, with the jury trials, the jury decides whether the parties recover or do not recover. You know, it is not my function to second guess what they do in that respect. As I have said, when you have been in an adversarial situation, such as I have all of those years, it becomes second nature to you. You kind of look forward to that kind of excitement. It is a very interesting job, the practice of law, you know. I enjoyed it, and do not know what I will do when I get done with this.

MG What is the difference between the county court and common pleas for you?

MAG For me, I will be very frank with you. The county court was much more exciting, mainly because there was a lot more action. I only had court on two days a week. In the county court, that was a part time job. I had a full time practice of law. So, we had one afternoon and one evening. The evenings usually were four or five hours in a courtroom, and which I would have a packed courtroom, such as you see on Judge Waupner's Court. You know, that's the kind of cases we would hear. I would hear small claims, evictions, traffic cases, DWI, criminal bind-overs, misdemeanors. And, it was constant action. It was just a constant turnover. I did not have the luxury of sitting down. When I had to sign entries, it was either before court or after court, never during court. Because it was just a constant flow of people. I had to keep them moving, and to make sure that the cases were scheduled properly with the bailiff and the clerk.

And, there were a lot of phone calls in that job that were not in this, with lawyers calling you, people calling you. The jurisdictional difference were different. That was a misdemeanor court and we only had monetary jurisdiction of three thousand dollars. Here, the jurisdiction is unlimited. You know, we have felony jurisdiction here and unlimited as to the amount. So, the responsibilities are different, but likewise, the people who appear before the court are different. Most of the time, I would say seventy percent of the court's work was involved in traffic violations, you know, when your neighbors came in and everybody else like that, for speeding, or whatever. So, it was a constant turnover of people who were always testing the judge in one way or another. And, it was always very interesting, very much so. Much more so than this, because it was a much more rapid turnover of people than here.

MG You kind of lead into my next question. When you get tested, does that ever affect the way they are sentenced? In a county court, obviously, you have restrictions up to a certain point. Here, you really do not have those restrictions. When someone comes into your courtroom and they are testing you, and you know, however they are doing it--they are disrespectful, or vice versa, if they are very respectful--does that affect you, and what is the sentence that you give them?

MAG Not really. You know, you never have to lose sense of your objectivity, and that is to be

fair to everybody. I have never lost my temper, even though I have been sort of tempted to do so on occasion by some people. When you lose sight of your objectivity, you tend not to be fair then. And, I have never ever let that influence me one way or the other. In fact, sometimes I might bend over backwards, if somebody had really solely tested me, and tried to kill them with kindness, on occasion. But, I cannot recall ever having lost my temper to the extent that I would yell or scream, or do something like that. I think I might adjourn court and go into my office and relax for a couple minutes, and then come back out again, or something like that. But, I think judges have to learn discipline. You have to understand if you are going to take somebody's money off of them, or you are going to take his license off of him, or if you are going to send him to jail, there is a certain amount of hostility there. But, that is your job and you ought not let that bother you when somebody exhibits that hostility.

My worst problem was with small claims people who appeared without lawyers, to try to explain to them why you were holding against them. Because, many of them do not perceive, or know what the law is, and they just feel because they have been wronged in their minds, that they are entitled to be compensated. That was my most trying experience. I had more trouble with people in small claims than I did sentencing people to the county jail for sixty or ninety days, or six months. For some reason or another, hurting them in their pocketbook was much more serious to them, rather than going to jail. I do not recall that I ever had ever problem with putting anybody in jail, but I had many, many, many problems with people who would question my decision and call me at home and yell at me because I was a dummy and did not know what they said in court. And, I said, "Ma'am, I have got a record. I made a record of everything such as your doing. We had four microphone tape recorders, which is the official reporter series." And, I said, "If you want to hear your testimony, you are welcome to come in and I will play it back for you." But, I did. A lot of the small claims provoked an awful lot of problems, as opposed to the criminal aspect, and, the games the lawyers would play with us. You know, not being available, and all that stuff. Continuing cases. But there was never a want for any excitement. [There was] Always something viable and exciting happening in the courtroom, much so than here in the common pleas bench, which is very quiet and sedate, you know, all together different world.

MG: How did you deal with your emotions?

MAG: I am kind of a low key person. I tend not to get mad. It was fun. I enjoyed it, really. I can honestly and sincerely say that my ten years on the county court bench were probably the most memorable portions of my practice of law, other than the practice of law itself, which is rewarding to me. I am not saying that the common pleas bench will not be the same, but I have only been here for five months, and so far it has not been anything like the county court bench was.

MG: Did you learn anything new when you went from county to common pleas?

MAG. No Not really, because I had been trying cases in a common pleas court for thirty-one years It was nothing different. In fact, it is so much similar to it and yet, not similar to it, that it becomes boring after a while It is like, about your tenth interview that you are going to conduct It is going to get kind of boring to you after a while because it is mundane after a while You know, you hear the same thing maybe in a different manner, and it is the same thing with this My function is, basically, is to conduct a court and make sure the parties move along with their case and to give them the law when it is done That is it I do not get involved When a lawyer objects, it is my obligation to either sustain him or overrule him based upon what I perceive the law to be as it relates to that, you know And, I am not always right, but that is what we have a court of appeals for, I guess

MG Does that ever bother you?

MAG No Never Never, never

MG Never second guess yourself?

MAG No I think in all my years in the county court, I had one case reversed on an appeal in ten years So, that did not bother me In fact, I knew it was going to get reversed, not for the reason I thought it was going to get reversed Our court of appeals reversed it for another reason It happened to be a dentist who was disenfranchised by the State Dental Association for some reason or another He continued to practice dentistry while under suspension It was only because of the way the affidavit was charged that the court of appeals overturned it. You know, they just had the wrong verbiage in the affidavit, charging him with a violation of the state code, as opposed to what he did Ultimately, he was convicted of it anyway. So, it did not make any difference

MG Okay sir Thank you

End of Interview