

Judicial Remembrance: Hon. Raymond J. Pettine

Judge Raymond James Pettine served as a U.S. district court judge in the District of Rhode Island for more than 30 years. He is considered one of our nation's "great jurist[s], a great scholar, and a great man" and a "courageous, forceful, [and] principled defender of the Constitution."¹ A review of his life and judicial career serves as a permanent reminder to judges, litigators, and all in the judicial system of the awesome power and responsibility of being a federal judge. I am extraordinarily proud and humbled to occupy Judge Pettine's seat on our district court.

Judge Pettine "was among the judges who had a 'grand conception' of 'what the possibilities of American justice were and what their role was in helping achieve individual liberty and equality.'"² Sen. Jack Reed (D-R.I.) described Judge Pettine, in a speech on the floor of the U.S. Senate, as a judge who "staunchly guarded the individual rights enshrined in the Constitution."³ Sen. Reed explained that Judge Pettine believed that the Constitution "should be interpreted in ways that 'give meaning to the heart and soul of what it's all about: a kinder, more understanding Constitution that recognizes the disenfranchised, the poor, and the underprivileged.'"⁴ Judge Pettine approached judging with a constant appreciation of how his rulings affected individuals' lives. "It's very important to remember the person behind each case and how each case can impact dramatically on individual lives,"⁵ he said.

During Judge Pettine's more than three decades on the bench, he presided over numerous landmark cases, particularly in the area of civil liberties. He mandated and then monitored the overhaul of Rhode Island's prison system; ordered a local school district in 1980 to allow a male student to attend the prom with a male date; prohibited a nativity scene from being displayed on the lawn of a city hall; struck down the state's anti-



abortion statute; ordered that schools provide breakfast to low-income students; forced the restructuring of Brown University's athletic program because it violated women's rights under Title IX; and ordered that the first gay pride parade be given a permit over the objections of the local police chief. Judge Pettine said, "I know a lot of my decisions are controversial, but that cannot deter me from doing in good conscience that which is mandated by the Constitution."⁶

His judicial creed can be summarized in language

Hon. John J. McConnell Jr. was appointed by President Barack Obama to the U.S. District Court for the District of Rhode Island on Jan. 5, 2011, and received his commission on May 6, 2011. In addition to his regular caseload Judge McConnell handles the district's mortgage foreclosure docket of more than 1,000 individual cases. Prior to his judicial appointment, Judge McConnell was a partner at the law firm Motley Rice LLC, where he tried dozens of cases in 13 different states on behalf of asbestos victims, lead-poisoned children and states' attorneys general that sued tobacco companies.



he used to allow Aaron Fricke, a gay high school student, to attend the prom with a date of his choice: "The Constitution is not self-explanatory and answers to knotty problems are inevitably inexact. All that an individual judge can do is apply the legal precedents as accurately and as honestly as he can, uninfluenced by personal predilections or the fear of community reaction, hoping each time to disprove the legal maxim that 'hard cases make bad law.'"7 He ruled that denying Fricke's right to attend the prom with the date of his choice "would completely subvert free speech by granting other students a 'heckler's veto' ... The first amendment does not tolerate mob rule by unruly schoolchildren."8

Judge Pettine was not afraid to break new ground. In 1977, three years into the litigation concerning unconstitutional conditions at the state prisons, he made an unannounced visit and took a surprise tour of the prison; then he ruled that prisoners were "living among rats and cockroaches in conditions that would 'shock the conscience of any reasonable citizen.'"9

Besides his forceful adherence to the principles of civil liberties, Judge Pettine is best known for his personal style. He had the "gracious manner of a true gentleman," remembered his Judicial Assistant Barbara Barletta. "Judge Pettine was like a grandfather. He was very polite [in] the way he treated everybody. He was an old-fashioned gentleman. He would go shopping by himself to buy groceries [and] snacks for the staff, and then he would lug them up to chambers all by himself. He took very good care of the staff. Judge Pettine was just so sweet. He commanded respect from everyone regardless of who you were, and he gave that respect to everyone in return."

Many of Judge Pettine's controversial rulings went against his deeply held personal convictions. For example, he struck down the state's anti-abortion law and prohibited a city from displaying a nativity scene, despite that fact that he was a devout Catholic. "He took a lot of flak for taking legal positions that were inconsistent with his religious beliefs because following the constitution was paramount," Barletta remembers. "He got threatened when he issued his abortion ruling. People sent him horrible pictures in the mail." Judge Pettine's daughter Lee Gillespie remembered, "He truly was one of the most devout Catholics I have known. But he was able to separate his beliefs from the dictates of the Constitution."10 The Rhode Island Historical Society described this predicament by acknowledging that Judge Pettine had a "reputation for a willingness to adhere to his own code of ethics despite the risk of disapproval from the public and/or state and local governments."11

Judge Pettine came from very humble beginnings. The son of Italian immigrants, he was born in July 1912 and raised in Federal Hill, the Italian-American section of Providence, R.I. His father was a wig maker, and his mother a milliner. He often personally "experienced the discrimination and taunts common to the immigrant experience in the early part of the 20th century."12

As a young boy, Judge Pettine had a compelling desire to be a lawyer. When he was eight years old, he handwrote a note to the dean of Harvard Law School asking, "What do you have to do to become a lawyer?" The dean responded with advice that we can all live by: "Study hard, be a good boy, always have a dream."13

Judge Pettine received his undergraduate education at Providence College and earned both his Bachelor of Laws and Master of Laws degrees from Boston University School of Law in 1937 and 1940, respectively.

Judge Pettine served in World War II. He enlisted in the U.S. Army in 1941 and rose to the rank of major by the time of his discharge from active duty in 1946. Later, he served in the Army Reserve, obtaining the rank of colonel in the Judge Advocate General's Corps. He was forced to leave the military when he was appointed to the bench because he could not stay in active service as a member of the federal judiciary.

After his military service and a short period in private practice, Judge Pettine was first a state and then a federal prosecutor. He worked in the Rhode Island Attorney General's office for 13 years until 1961 when President John F. Kennedy (D) appointed him the U.S. Attorney for the District of Rhode Island. Attorney General Robert F. Kennedy referred to him as "one of the nation's top three federal prosecutors."14

Shortly after Congress established a third seat in the District of Rhode Island in March of 1966, President Lyndon B. Johnson (D) nominated Judge Pettine to the bench. He served as a district judge for five years before becoming chief judge in 1971, a position he held until 1982. He was elected to the Judicial Conference of the United States in 1979 by a unanimous vote of the First Circuit judges. In 1982, at age 70, he took senior status. After suffering a stroke, he stopped hearing cases.

Following his move to senior status in 1982, Judge Bruce M. Selya occupied Judge Pettine's seat until 1986, when Judge Selya was appointed to the U.S. Court of Appeals for the First Circuit. From 1987 through 2011, Judge Ernest C. Torres served in this seat. Since May 2011, the author of this article has occupied the seat.

Judge Pettine's roster of incredibly accomplished former law clerks is impressive, including Chief Judge Sandra L. Lynch of the U.S. Court of Appeals for the First Circuit; Rhode Island Superior Court Associate Justice Allen P. Rubine; Massachusetts Superior Court Associate Justice Richard E. Welch III; Law Professors Cynthia Farina (Cornell), Ann Carey Juliano (Villanova), Jane Schacter (Stanford), and Gregory Silverman (Seattle); public-interest

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advocates Matthew Myers (Campaign for Tobacco-Free Kids), Kristen Boyles (Earthjustice), and John Ward (founder of Gay and Lesbian Advocates and Defenders); and many accomplished litigators, including Rhode Island's Lynnette Labinger and Matthew Medeiros.

Judge Pettine was married to Lidia Golini Pettine, a former ballet dancer who passed away in 1988. Judge Pettine died on Nov. 17, 2003, in Dallas, Texas, where he had moved to be near his daughter, Lee Gillespie, and his granddaughter, Lauren. ☺

Endnotes

¹149 Cong. Rec. S15929 (daily ed. Nov. 25, 2003) (statement of Sen. Reed).

²*Raymond J. Pettine, 91, Judge in Rhode Island Prison Case*, N.Y. TIMES, Dec. 1, 2003.

³149 Cong. Rec. S15929 (daily ed. Nov. 25, 2003) (statement of Sen. Reed).

⁴149 Cong. Rec. S15929 (daily ed. Nov. 25, 2003) (statement of Sen. Reed).

⁵*Retired Judge Pettine, 91, Passes Away*, R.I. LAWYERS WEEKLY, Nov. 24, 2003.

⁶Kirsten Hammerstrom, *Faith and Freedom Friday: Raymond J. Pettine*, rihs.wordpress.com/2013/03/01/faith-freedom-friday-raymond-j-pettine/.

⁷*Fricke v. Lynch*, 491 F. Supp. 381, 389 (D.R.I. 1980).

⁸*Id.* at 387.

⁹*Raymond J. Pettine, 91, Judge in Rhode Island Prison Case*, N.Y. TIMES, Dec. 1, 2003.

¹⁰*Id.*

¹¹*Raymond J. Pettine Papers*, R.I. HISTORICAL SOCIETY, www.rihs.org/mssinv/Mss146.htm.

¹²Kirsten Hammerstrom, *Faith and Freedom Friday: Raymond J. Pettine*, rihs.wordpress.com/2013/03/01/faith-freedom-friday-raymond-j-pettine/.

¹³149 Cong. Rec. S15929 (daily ed. Nov. 25, 2003) (statement of Sen. Reed).

¹⁴*Retired Judge Pettine, 91, Passes Away*, R.I. LAWYERS WEEKLY, Nov. 24, 2003.