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Tribute to Judge James E. Barrett

Stanley K. Hathaway

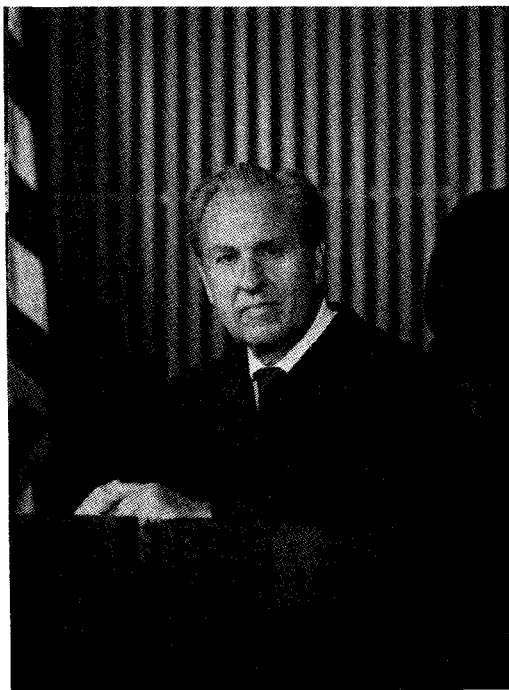
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TRIBUTE TO JUDGE JAMES E. BARRETT

*Stanley K. Hathaway**

Jim Barrett grew up in Lusk, Wyoming, the son of Frank and Alice Barrett. Frank Barrett served Niobrara County as county attorney and as a state senator before becoming the only Wyoming citizen to serve as Congressman, Governor, and U.S. Senator.

Jim was the right age for World War II. He landed on Normandy Beach on D-Day plus two. He was assigned to the Headquarters Detachment of the 1st Army commanded by General Bradley and the 3rd Army commanded by General Patton. After VE-Day, Jim came home to join his mother and father in Washington, D.C., where he attended Catholic University for six months. In the fall of 1946, he entered law school at the University of Wyoming. He graduated in 1949 and began the practice of law in Lusk under the firm name of Barrett & Barrett. He was first appointed and then elected Niobrara County Prosecuting Attorney, a position he held for ten years. In those days the salary of a county attorney was \$166 a month, so they were allowed to have a private practice which did not conflict with

* Stanley K. Hathaway served as Governor of Wyoming from 1966-1974. He practices law in Cheyenne, Wyoming with the firm Hathaway, Speight & Kunz.

County business. It was during this period that Jim and I became life-long friends. We had many common experiences as county and prosecuting attorneys in adjoining counties, and relied upon each other for advice and moral support.

When I was elected Governor of Wyoming in 1966, I asked Jim to be Attorney General and I was delighted when he accepted. It wasn't easy for him to finish the law cases he had pending or to move his family, but in the spring of 1967, Jim and his wife, Ann, and their three children, Rich, Ann, and John, became residents of Cheyenne.

As Attorney General, Jim Barrett used his law enforcement experience to establish Wyoming's first law enforcement training academy, which has trained several thousand law enforcement officers over the years. He also initiated a criminal division within the Attorney General's office to assist local law enforcement agencies in the investigation of crimes committed in their jurisdiction. As an advocate of local control, he insisted that service of the criminal division in local criminal investigations was performed only upon county or city request. The Office of the Attorney General has broad responsibilities in representing state agencies and handling litigation involving the state government. Attorney General Barrett appointed a small, talented staff which he led successfully because of his expertise, knowledge and work ethic. The office did not farm out litigation to private practitioners during his time as Attorney General. Since there was no Legislative Service Office at that time, the Attorney General drafted legislation at the request of members of the Legislature and offered advice and counsel throughout the legislative session.

Among his many duties, Jim Barrett was the attorney for the Governor. His good advice and service to me was a highlight of my years in the capitol. We often worked until midnight to handle problems which confronted us during normal working hours. It helped that we were used to burning the midnight oil in small town law practices.

In 1971, James E. Barrett was nominated by Senator Cliff Hansen and President Nixon to serve as a member of the United States Tenth Circuit Court of Appeals. The presidential appointment was confirmed by the U.S. Senate in April of 1971.

Judge Barrett's common sense and work ethic made him an outstanding member of the court. He wrote more court opinions than any other court member before he took senior status.

All who have had the good fortune to know Jim Barrett know that he is a man of great integrity and character and also a man of great courage, whether it being learning to fly an airplane after his pilot suffered a stroke, or fighting for his life after being afflicted with cancer and heart problems.

Undaunted by those physical setbacks, he carries his oxygen tank on his shoulder most work days of the week to write opinions for the Tenth Circuit.

TRIBUTE

*Aisha Tinker Bray**

This spring commemorates Judge James E. Barrett's 27th year on the Tenth Circuit Court of Appeals. I have had the pleasure of serving as Judge Barrett's law clerk for the past four of those years and it is with that in mind that I write in honor of my "boss," mentor, and friend.

Judge Barrett was appointed to the Tenth Circuit on April 23, 1971. As soon as he was eligible, on April 8, 1987, Judge Barrett took senior status. While many view being a Senior Circuit Judge as semi-retirement, it did not slow down Judge Barrett. He maintained an active judge's case load while freeing himself from the administrative chores of the court. As late as 1995-96, Judge Barrett was still one of the highest producing members of the court in terms of decisions authored or participated in. Even today, although he has decided to relax a little and vacation more, he maintains a challenging case load and ensures that he is current for every term of court.

In 1996, Judge Barrett contracted esophageal cancer. Many believed that this would mean his full retirement from the bench. They were wrong. After enduring seven hours of invasive surgery at the Mayo Clinic and a serious bout with pneumonia upon his return home, Judge Barrett returned to work with his usual enthusiasm. Even while at home recovering, he ran the office from his recliner, calling every day to make sure things were progressing efficiently, and reviewing the court's drafts and proposals from the comfort of his home. Where many would have called it quits, Judge Barrett strived to return to the office and his traditional case load.

At home or at his office, Judge Barrett greets everyone with a smile and a kind word. His concern is for the other person, not for himself. The Judge is quick to regale willing listeners with stories from his days in Lusk, Wyoming, in private practice and as county and city attorney, as well as tales of the court during his early years. And there is always the legendary plane crash he walked away from while serving as Wyoming's Attorney General.

Judge Barrett brings his unending enthusiasm and zeal to work. He believes a decision should be written to tell the story of the parties and resolve their conflicts in the most efficient and understandable manner. As in

* Aisha Tinker Bray clerks for Judge Barrett in Cheyenne, Wyoming.

most things, he is usually agreeable to the ideas and solutions proposed by his fellow court members. This is not to say, however, that Judge Barrett is not a fighter. He is the first to stand up for his ideas and what he believes is right, and he is always willing to debate or correct issues of law, especially with a wayward law clerk.

It is truly a pleasure to work for and with someone who has such a breadth of knowledge and experience and is willing to pass it along to others. I wish him many more years of joy and happiness, whether cruising the world's oceans or deciding cases, or both.

EDUCATION

L.L.B. University of Wyoming, 1949

EMPLOYMENT

Judge, United States Court of Appeals for the Tenth Circuit, 1971-present

Attorney General, State of Wyoming, 1967-71

City Attorney, Lusk, Wyoming, 1954-56

County and Prosecuting Attorney, Niobrara County, 1952-1962

Barrett & Barrett, 1949-1967

MILITARY SERVICE

United States Army

Cpl., 1st & 3rd Armies, European theatre of operations, 1942-1945

NOTEWORTHY DECISIONS

Sutton v. United Airlines, 130 F.3d 893 (10th Cir. 1997)

Harvey v. Shillinger, 76 F.3d 1528 (10th Cir. 1996), *cert. denied*, 117 S. Ct. 253 (1996).

Crow Tribe of Indians v. Repsis, 73 F.3d 982 (10th Cir. 1995).

Comanche Indian Tribe of Oklahoma v. Hovis, 53 F.3d 298 (10th Cir. 1995).

United States v. Girolamo, 23 F.3d 320 (10th Cir. 1994), *cert. denied*, 15 S. Ct. 640 (1994).

FDIC v. Hulsey, 22 F.3d 1472 (10th Cir. 1994).

United States v. Roederer, 11 F.3d 973 (10th Cir. 1993).

Franklin v. United States, 992 F.2d 973 (10th Cir. 1993).
Framers Ins. Co. v. Hubbard, 869 F.2d 565 (10th Cir. 1989).
United States v. Broce, 781 F.2d 792 (10th Cir. 1986).
Anderson, Inc. v. Town of Erie, 767 F.2d 1469 (10th Cir. 1985).
Oklahoma Telecasters Ass'n. v. Crisp, 699 F.2d 490 (10th Cir. 1983).
Bravo v. Wise, 666 F.2d 1328 (10th Cir. 1981).
City & County of Denver v. Matsch, 635 F.2d 804 (10th Cir. 1980).
Glover Const. Co. v. Andrus, 591 F.2d 554 (10th Cir. 1979).
United States v. Trammel, 583 F.2d 1166 (10th Cir. 1978), *aff'd*, 445 U.S. 40 (1980).
Leo Sheep Co. v. United States, 570 F.2d 881 (10th Cir. 1977) (dissenting opinion), *rev'd*, 440 U.S. 668 (1979).
Battle v. Anderson, 564 F.2d 388 (10th Cir. 1977).

SERVICE & AFFILIATIONS

Former Member, United States Foreign Intelligence Surveillance Court of Review

American Judicature Society, 1973-present

Trustee, St. Joseph's Children's Home, Torrington, Wyoming

Trustee, St. Leo's Catholic Church, Lusk, Wyoming

Lusk Chamber of Commerce

Wyoming State Bar Association, 1949-present

University of Wyoming Alumni Association

University of Wyoming Cowboy Joe Club

HONORS

University of Wyoming Distinguished Alumni, 1975

Honorary Member, University of Wyoming College of Law Chapter of the Order of the Coif, 1994