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THE HONORABLE JOHN A. CRISWELL, COLORADO COURT OF APPEALS

MELINDA S. MOSES*
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Judge John Albert Criswell was born May 13, 1932 in Phoenix, Arizona. His father was a colorful man who at the age of fourteen, left his home in Texas, took refuge in a bordello, and a year later, found himself living in the raucous mining town of Creede, Colorado where he supported himself as a butcher by day and as a card dealer by night. Judge Criswell's mother was the daughter of a railroad worker. The couple met in Alamosa and married in 1919. They moved to Phoenix for a short time and settled in Pueblo, Colorado when the Judge was six months old.

The family's circumstances were modest. They bought a three room house in Pueblo, which remained the home of the Judge's mother until she passed away at the age of 91. However, despite his family's hardships, Judge Criswell has many fond memories of growing up in Pueblo.

High school, in particular, profoundly impacted the Judge. He describes this period in his life as a time of intellectual and self growth, much of which he attributes to H.H. Bisel, his history teacher and debate coach at Centennial High School. During this time, Centennial had a championship debate team under Bisel, and the Judge continued the tradition as a junior, by helping his team win a three-state championship. The Judge's high school involvement, however, did not end with debate. He served as senior class president and forged strong friendships with his classmates whom he described as a unique group of ambitious, bright, and accepting individuals.

One of the topics the Judge debated was whether a world government should be created. This piqued the Judge's interest in foreign affairs and he attended the School of Foreign Service at Georgetown University. Having no scholarship or financial aid, he worked his way through college. This led to the what the Judge has described as his most "enjoyable job"—being an elevator operator in the House Building of the United States Congress. This job paid so well that the Judge was able to share the job with a buddy and work only every other month. Unfortunately, however, the job, which was a patronage position, disappeared when the Republicans won control of Congress in 1950. Thereafter, the Judge was relegated to a "less glamorous" (and lower paying) job in the Georgetown Library.

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Judge Criswell describes his years at Georgetown as very stimulating. History was taught in a different manner than he ever experienced—as a tool for the decision-making of future statesmen. He lived off-campus in a fraternity house with connections to prominent diplomats who would often come to address the students. After two years, however, the Judge concluded that, as a “small town guy who wore boots, had little money, and did not like having to wear a tie everyday,” any success with the State Department would be hard won. Consequently, he revived a childhood ambition to become a lawyer.

With that goal in mind, the Judge returned to Colorado to attend the University of Denver. The day he arrived, his high school friends arranged a blind date with Ann Jones. The pairing was a success, and an engagement was announced three months later.

The Judge then had to finish another year of undergraduate curriculum before beginning law school. He took the opportunity to have a “renaissance year”—taking classes in American history, psychology and undergraduate constitutional law. He also joined the R.O.T.C. program since this was during the Korean war and he already used his student deferment.

He began law school at the University of Denver (DU) in 1953. At that time, the law school had only five full time professors: (1) Dr. Tom Marsh, who taught real estate and torts; (2) Vance Dittman, who taught procedure and evidence; (3) Charles E. Works, who taught probate, estates, and trusts; (4) Harold Hurst, who taught administrative and constitutional law; and (5) Wilson Hurt, who taught corporations, agency, and partnerships. Of these men, the Judge was particularly influenced by Dr. Marsh, a man with exceptional intelligence and an admirable ability to relate to all types of people.

Judge Criswell graduated cum laude from DU Law School in 1956. He was a member of the Order of St. Ives, the Student Work Editor of the Law Review, which was then known as DICTA, and treasurer of his class. He respected his talented classmates, many of whom have since become leaders in the profession. They include Walter Gerash (prominent Denver criminal defense attorney), Mike McKeivitt (former Denver district attorney and United States Congressman), Anthony Vollack (Colorado Supreme Court Justice), Don Smith, (retired Colorado Court of Appeals Judge), Gaspar Perricone (a Jefferson County District Court Judge), and Ray Turner, (partner, the law firm of Sherman and Howard).

Upon his graduation, Judge Criswell was thrust into the “real world” with unusual force. His first child was due the first day of the Bar Exam and the Judge was ordered to report for active military duty in the Air Force six months later. Needless to say, besides mounting pressure to pass the bar, the Judge faced a difficult financial situation. He will always be grateful for the six month employment that Sherman & Howard, then known as Dawson, Nagel, Sherman & Howard, graciously extended to him. Not only did it provide him the means to support his family, but it also exposed him to interesting projects and eminent practicing attorneys.

His time in the Judge Advocates General Corps of the Air Force, as a military attorney, was also important to his professional development. It provided him with the unique opportunity to try courts martial both as a prosecutor and as a defense counsel. In addition to the extensive trial experience he gained, Judge Criswell also started an income tax school on his base so the airmen, many of whom recently left home for the first time, could obtain the advice needed to complete their tax returns.

After leaving the military, Judge Criswell joined a firm formed by his classmates, Bill Myrick and Don Smith. The two established, through happenstance, a relationship with a local Teamster's union and developed a practice in labor law. They also developed an expertise in municipal law.

In 1963, the firm added Joseph P. Branney, one of the state's prominent personal injury litigators, and emphasized all aspects of trial work before the courts and numerous administrative agencies. The Judge also taught contracts classes at DU Law School during the 1960 and 1961 academic years.

The Judge's municipal law practice grew, and he was appointed city attorney for Englewood in 1965. Much of his involvement with the city focused on the development of Cinderella Shopping Center, which at the time, was the largest shopping center in the world under one roof. Local residents mounted opposition to the development. Extensive litigation ensued, including a petition filed with the United States Supreme Court, before the litigation was settled and the shopping center built.

During this same period, Judge Criswell began to represent more unions, including several in the newspaper industry. He also became known as a leading appellate advocate. Appellate work was very rewarding for him because he felt that with each case precedent, he created something with a lasting effect that would benefit society as a whole.

The law firm of Myrick, Smith, Criswell and Branney dissolved in 1970. The Judge continued his private practice and later became associated with Gary Patterson, John E. ("Pat") Myles, Beverly Ballantine, John M. McNamara, and Gary Bell.

He continued to practice labor law, and, in later years, he developed a civil rights practice, with an emphasis on prosecution of claims under 42 U.S.C. § 1983. One of the Judge's most memorable and challenging of these cases was when he represented several members of the faculty of Colorado Women's College who were terminated shortly before that institution was closed.

Judge Criswell was appointed to the Colorado Court of Appeals on September 10, 1986 by then Governor Richard D. Lamm. As a jurist, Judge Criswell is guided by a personal respect for the history and integrity of legal doctrine. He believes a judge should not be unduly influenced by his or her own personal perspectives or politics. Radical departures from the past, in Judge Criswell's view, should be accepted only when established legal precedent cannot be used to provide a workable solution to modern problems. Consistent with this philosophy, Judge Criswell sees his most important role as one of a leveling influence on different views.

Influenced by his professional experience before he assumed the bench, Judge Criswell's more notable opinions have related to civil rights,¹ constitutional law² and tort law.³ He has, however, also written upon important issues of criminal law.⁴ As a current and former law clerk to Judge Criswell, we both have benefitted from the Judge's exhaustive knowledge of legal doctrine, his razor-sharp powers of analysis, and his passion for his work. He reads the briefs of his cases for the coming week at home every Saturday morning—he often reads 10 sets over a weekend. He arrives on Monday morning with a thorough grasp of the facts and every legal argument on both sides of every case. To our astonishment, he can then sit down and draft a complex legal opinion in two hours. These opinions never stray from his standards—they are precise, concise and yet eloquent, reflecting his love for writing.

Judge Criswell has also acted as a mentor to us. He was always interested in and gave careful consideration to our ideas and analyses. From our exchanges, we learned how to dissect a case, identify the issues the court should *not* address, and then solve the problems that were left. Both of us know that we will continually draw on these skills and are grateful for the time and care Judge Criswell took in cultivating our legal abilities.

The relationship the Judge developed with us is symbolic of his approach to his work and to the world. He is not only a very disciplined man who takes his responsibilities seriously, he also holds a deep regard for the law which he transmits to those that he works with. His active involvement as chair of the Judicial System Personnel Board of Review and the Supreme Court's Civil Jury Instruction Committee evidence that regard as does his commitment to the legal community.

However, Judge Criswell is not all work. He is a vigorous, witty, and entertaining man. He has many outside interests including birding, skiing, cycling, and traveling. He has competed in running races and has ridden his bicycle in mountain tours. He rewards his hard work by spending as much of his free time as possible skiing or hiking at his mountain-side cabin. He is also dedicated to his wife Ann, their five children, and six grandchildren.

The Judge appears always mindful that many people and experiences contributed to his ability to surmount his modest beginnings to become a distinguished jurist. This fuels the dignity and respect with which he approaches both the law and his legal comrades.

1. *Montoya v. Colorado Springs*, 770 P.2d 1358 (Colo. Ct. App. 1989) (sets forth underlying principles for § 1983 action).

2. *Lucchesi v. Colorado*, 807 P.2d 1185 (Colo. Ct. App. 1990) (authorizing taxpayer action to recover ad valorem taxes alleged to violate state constitution).

3. *Sewell v. Public Service Co.*, 832 P.2d 994 (Colo. Ct. App. 1992) (jury must decide any disputed facts that may be relevant for court to determine legal question of existence of duty).

4. *People v. Atkins*, — P.2d — (Colo. Ct. App. 89CA0950, June 4, 1992) (criminal defendant cannot be convicted of both murder after deliberation and extreme indifference murder).