
FINALS

THE FIFTEENTH ANNUAL JOHN W. DAVIS

MOOT COURT COMPETITION



Lee Chapel

November 10, 1994

4:00 p.m.

**THE FIFTEENTH ANNUAL JOHN W. DAVIS
MOOT COURT COMPETITION**

"I MAY BE CRANK ON THE SUBJECT OF MOOT COURT; I HAVE NO DOUBT MR. GRAVES THINKS I PUT TOO MUCH EMPHASIS ON THEM . . . I CONCEDE THAT THE THING MAY BE OVERDONE; AND THAT AFTER ALL THE REAL SCHOOL FOR PRACTICE MUST BE COURTROOM; BUT SO MUCH EMBARRASSMENT CAN BE SAVED THE YOUNG PRACTITIONER, AND SO MUCH ADDED TO HIS CAPACITY FOR SERVING THOSE WHO ARE UNFORTUNATE TO BE AMONG HIS EARLY CLIENTS, THAT I HARDLY THINK TOO MUCH CARE CAN BE TAKEN IN TRAINING HIM, SO FAR AS POSSIBLE, IN THE TOOLS OF THE TRADE."

—JOHN W. DAVIS, April 30, 1898
in a letter written to professor H. St. Tucker

The John W. Davis Moot Court Competition is held annually in the fall semester. All second and third year students, except members of the Washington and Lee Moot Court Teams and Board, are invited to participate. The competition was developed to provide participating law students with the opportunity to increase their skills in oral advocacy. The competition serves to provide the participants with both a competitive and a learning experience. The participants' writing skills are also evaluated with the submission of a brief on the issues dealt with in oral argument.

Students wishing to represent Washington and Lee in the National Moot Court Competition, National Appellate Advocacy Competition, or the Vanderbilt First Amendment Competition will be selected solely on the basis of their ranking in the Davis Competition.

Davis participants competed individually. Competitors are designated counsellor for either petitioner or respondent. Each participant must submit a brief in addition to arguing the case before the court. Each participant receives a score for the brief, which, combined with marks received for oral advocacy, determine each person's advancement through the competition.

The Davis Competition is administered by third year students serving on the Moot Court Board. Members of the Board structure the fictional problems, judge both the preliminary and quarterfinal rounds, and grade the briefs

submitted by all participants. Three faculty members then judge the semifinal rounds. This year the faculty bench included law professors F. Bowman, A. Ides and L. Fitzgerald. The Best Brief Nominees are selected by the Moot Court Board, with the Best Brief Award selected by faculty members. Dean M. Grunewald, Professor E. Henneman and Professor B. Murchison aided in the selection of the Best Brief Award.

The 1994 John W. Davis Moot Court Competition culminates today with the announcement of the Best Oral Advocate and the Best Brief Award following the presentation of all the arguments.

THE PARTICIPANTS

Counsel for the Petitioner

Paula Effle

Eric Chaffin

Counsel for the Respondent

Chanda Coblenz

Thomas Kratman

THE COURT

THE HONORABLE RICHARD D. CUDAHY
(Judge of the United States Court of Appeals Seventh Circuit)

THE HONORABLE ELIZABETH B. LACY
(Associate Justice of the Supreme Court of Virginia)

THE HONORABLE JUDGE JERRY E. SMITH
(Judge of the United States Court of Appeals Fifth Circuit)

WASHINGTON AND LEE MOOT COURT BOARD

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Monique McDowell
Negotiations and Client Counseling

Allan Ides, Davis Moot Court Advisor

Jim Phemister, Mock Trial Advisor

IN THE SUPREME COURT OF THE UNITED STATES

STATE OF DAVIS,

PETITIONER,

v.

CARLA DEVILLE,

RESPONDENT.

The 1994 John W. Davis Moot Court Competition involves the following factual scenario:

The respondent, Carla DeVille, is a twenty-five year mother of four children, all under the age of seven. She is recently separated. On July 1, 1993, Mrs. DeVille was shopping with two of her children, Greg and Marsha, in the local K-Mart. The air conditioning was not functioning and soon her children became very disruptive: being excessively noisy, modeling women's lingerie, and attempting to microwave hamsters from the pet department. Frustrated with their behavior, Mrs. DeVille struck both of her children on the cheek with enough force to leave bruises. Other patrons of the store called the police, and Mrs. DeVille was subsequently arrested for child abuse, a class 5 felony in the state of Davis.

Carla DeVille was convicted of felony child abuse in the District Court of Newage County. She received a thirty day suspended jail sentence and a probation term of three years. The probationer's report revealed a disturbing pattern of abusive behavior on the part of Mrs. Deville. She had been convicted at the age of 16 for striking a boyfriend's child with an electrical cord after a toilet training accident. Since overcoming a history of prostitution and drug addiction, she has proven to be a poor parent, failing to adequately cloth, feed, and monitor her children. On multiple occasions, neighbors have had to summon the police as Mrs. DeVille chased her children about the house with a belt in a fit of rage. Finally, Carla DeVille suffers from a gambling addiction which has drained the family's resources and forced her to leave the children unattended.

Consequently, the sentencing judge found Mrs. DeVille to be a borderline candidate for probation. In an effort to further her rehabilitation and to protect her children, the sentencing judge imposed mandatory parenting classes and Gambler's Anonymous classes. In addition, he ordered that Carla DeVille undergo the Norplant contraceptive therapy to prevent the stress of a pregnancy and newborn child until she has become a fit parent. Norplant, ap-

proved by the Food and Drug Administration in 1990, requires the insertion of five match-sized capsules into the defendants arm. Releasing the hormone levongesterol, Norplant is more than 99 percent effective at preventing pregnancy.

Through her attorney, Mrs. DeVille filed a motion to modify the sentence, vacating the Norplant condition. The circuit court rejected the motion and a subsequent appeal was filed with the Supreme Court of the State of Davis.

After hearing arguments on both sides, the State of Davis Supreme Court struck down the Norplant condition as unconstitutional and issued an order vacating the requirement that the defendant be implanted with Norplant. Relying on the right of privacy first enunciated in *Griswold v. Connecticut*, the court found the condition infringed on Mrs. DeVille's right to make decisions about whether or not to conceive and bear a child. The court further found the link between preventing the conception of a fifth child and protecting Mrs. DeVille's present children too tenuous to justify the infringement on Carla DeVille's right to privacy.

The case is now on appeal to the United States Supreme Court. The Court today will be hearing arguments directed to the following question:

DID THE STATE OF DAVIS SUPREME COURT
ERR IN HOLDING THAT THE CONSTITUTIONAL
RIGHT OF PRIVACY PRECLUDES IMPOSITION OF THE
CONTRACEPTIVE NORPLANT AS A CONDITION OF
PROBATION FOR A REPEAT CHILD ABUSER?

**RESULTS OF THE
1994 JOHN W. DAVIS COMPETITION**

FINALISTS

Eric Chaffin	Chanda Coblenz
Paula Effle	Thomas Kratman

SEMIFINALISTS

Brynja McDivitt	Greer Saunders
Mark Visger	Daniel Wooten

QUARTERFINALISTS

Amy Alcoke	Mike Allen
Rachel Berry	Preston Came
Brian Good	David Lay
Jennifer Mallory	Marc Randolph
John Reid	Greg Weinig

The members of the Moot Court Board would like to extend their appreciation to all student participants and faculty members who participated in this year's program. Without any of these individuals, the John W. Davis Moot Court Competition could never enjoy the success it has received over the years.

JUDGE RICHARD D. CUDAHY

Judge Cudahy is a Circuit Judge of the United States Court of Appeals for the Seventh Circuit covering the states of Wisconsin, Illinois and Indiana. Immediately prior to this appointment to the Court by President Carter in 1979, he was the resident partner of the Chicago law firm of Isham, Lincoln & Beale in Washington, D.C. There he practiced law before U.S. government agencies and the U.S. Court of Appeals for the District of Columbia. His Washington practice was primarily in the area of energy law and he had major responsibilities in the Texas Electrical Interconnection Dispute, 1976-1979. Judge Cudahy was a partner in the Milwaukee law firm of Godfrey & Kahn prior to going to Washington, D.C.

From 1972 to 1975, he served as Commissioner and Chairman of the Public Service Commission of Wisconsin where he participated in many important decisions involving the energy crisis, pricing of utility services, nuclear power, communications and transportation. He has been active in government, business, politics and civic affairs in his home state of Wisconsin.

From 1961 to 1971, Judge Cudahy served as Chief Executive Officer of Patrick Cudahy, Inc., a meat processing concern employing more than 800 people.

Judge Cudahy received his B.S. degree from the United States Military Academy at West Point and his J.D. from Yale University Law School. He is a member of the bar of Wisconsin, Illinois, Connecticut and the District of Columbia.

Judge Cudahy is Chairman of the Board of the International Human Rights Law Institute of DePaul University College of Law. He is a member of the American Law Institute. He is also a member of the Council of the Section of Natural Resources, Energy and Environmental law of the American Bar Association and has been a member of the councils of the Section of Administrative Law and Regulatory Practice and the Section of the Public Utility, Communications and Transportation Law of the ABA. He is the immediate past president of the Law Club of the City of Chicago.

He has been a visiting professor of law at the University of Wisconsin, a Lecturer in Law at Marquette University and a Professorial Lecturer on the "Law of Energy" at the George Washington University National Law Center, Washington, D.C. He is the author of numerous scholarly articles including a recent one on deregulation in the *Yale Journal on Regulation*.

Judge Cudahy is married and has seven children.

JUSTICE ELIZABETH B. LACY

Justice Lacy was appointed to the Virginia Supreme Court January 1, 1989, for a term expiring February 11, 1989. On January 19, 1989, Justice Lacy was elected by the Virginia General Assembly to a twelve year term of office, commencing February 1, 1989.

From 1985 to 1989, Justice Lacy served as one of three judges for the Virginia State Corporation Commission. The Commission, established by the Virginia Constitution, with legislative, executive, and judicial functions, has regulatory jurisdiction over state-chartered financial institutions, public utilities, railroads, motor carriers, insurance, securities, and corporations. From 1982 to 1985, she served as Deputy Attorney General, Judicial Affairs Division for the Virginia Office of the Attorney General.

Former positions of employment for Justice Lacy include Legislative Aide to Delegate Carrington Williams, 1976-1977; Office of Attorney General, State of Texas; as Assistant Chief, Anti-trust and Consumer Protection Division; as Special Assistant Attorney General, and as Chief, State and County Division, 1973-1976; Staff Attorney, Texas Legislative Council, 1969-1972; and Elementary School Teacher, St. Ignatius School, Austin, Texas, 1966-1967.

Justice Lacy received her B.A. from Saint Mary's College in 1966 and her J.D. from the University of Texas Law School in 1969. In 1992, Justice Lacy received an LL.M from the University of Virginia School of Law. She has been admitted to practice in Virginia (1977), Texas (1969), the United States Supreme Court, the Fourth Circuit Court of Appeals, the Fifth Circuit court of Appeals, the Temporary Emergency Court of Appeals and the Federal District Courts of Virginia and Texas.

Justice Lacy has received an Honorary LL.D from Longwood College in 1993; an Honorary LL.D from the University of Richmond, 1992; and an Honorary Degree, Doctor of Arts and Humanities from St. Mary's College in 1992. Other awards and honors include the Virginia Women's Hall of Fame, 1992; a Distinguished Merit Citation, National Conference of Christians and Jews, 1991; the Liberty Bell Award, Newport News Bar Association, 1990; Newsmaker of the Year Award, Virginia Press Women, 1990; Outstanding Woman of Greater Richmond, in the Category of Law, Virginia YWCA, 1989; Woman Pathfinder Award, Richmond Professional Womens Network, 1989; and Outstanding Woman of Virginia, Virginia American Legion Auxiliary, 1985.

JUDGE JERRY E. SMITH

Judge Smith was appointed United States Circuit Judge for the Fifth Circuit on December 21, 1987 by President Reagan. He graduated from Yale University, receiving a B.A. degree in 1969 and a J.D. degree in 1972.

Judge Smith was formerly employed as a Law Clerk to the honorable Halbert O. Woodward, United States District Court, Northern District of Texas, 1972-1973; with the law firm of Fulbright & Jaworski as an Associate, 1973-1981, and as a Partner, 1981-1984; and as City Attorney, City of Houston 1984-1987. He was Chairman, Civil Service Commission, City of Houston 1982-1984; and a Member, Harris County Housing Authority Board of Directors, 1978-1980.

Judge Smith is married to the former Mary Jane Blackburn and has two children: Ruth Ann and Clark. He is a member of the State Bar of Texas and the Houston Bar Association. He was also a member of the Texas City Attorneys Association, 1984-1987; the Advisory Board, Municipal Legal Studies Institute of Municipal Law Officers, 1984-1987. Recently he was appointed by Chief Justice Rehnquist as a member of the Advisory Committee on Rules of Evidence of the Judicial Conference of the United States.
