
FINALS

THE SIXTEENTH ANNUAL JOHN W. DAVIS

MOOT COURT COMPETITION



Lee Chapel

November 9, 1995

4:00 p.m.

THE SIXTEENTH 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 R. Bezanson, L. Fitzgerald and A. Massie. The Best Brief Nominees are selected by the Moot Court Board, with the Best Brief Award selected by faculty members. Professors R. Groot, L. Halper and B. Murchison selected the Best Brief Award from among the Best Brief Nominees.

The 1995 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

Courtney Camp

Andrew Harding

Counsel for the Respondent

Mary Eade

Tracy Taylor

THE COURT

THE HONORABLE MARTHA CRAIG DAUGHTREY
(Judge of the United States Court of Appeals, Sixth Circuit)

THE HONORABLE M. BLANE MICHAEL
(Judge of the United States Court of Appeals, Fourth Circuit)

THE HONORABLE KENNETH F. RIPPLE
(Judge of the United States Court of Appeals, Seventh Circuit)

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Negotiations and Client Counseling

Roger Groot, Davis Moot Court Advisor

IN THE SUPREME COURT OF THE UNITED STATES

United States,

PETITIONER,

v.

Davis Military Institute

Commonwealth of Davis,

RESPONDENTS.

The 1995 John W. Davis Moot Court Competition involves the following factual scenario:

The Davis Military Institute ("DMI") is one of sixteen publicly-funded colleges in the Commonwealth of Davis. DMI is designated as a military-style school. Since its founding in 1832, DMI has utilized a pedagogy characterized as an adversative, or "doubting" style of education. DMI holds a unique and special position as a recognized training facility for military and civilian leaders. Throughout its history, DMI has denied admission to female applicants.

The United States brought this suit in the U.S. District Court for the Western District of Davis against DMI and the Commonwealth of Davis on behalf of five female high school students who cannot be considered for admission to DMI because of the school's all-male admissions policy. The United States argued that DMI's admissions policy violated the five applicants' rights to equal protection of the laws under the Equal Protection Clause of the Fourteenth Amendment. DMI responded that the gender classification passed the intermediate scrutiny test, which traditionally has been applied in gender discrimination cases, because: (1) the Commonwealth had an important interest in promoting diversity in its system of higher education, and (2) excluding women from DMI substantially furthered that interest. The district court held that the male-only admissions policy violated the Equal Protection Clause of the Fourteenth Amendment.

DMI responded by proposing a remedial plan for the district court's consideration. That plan includes establishing a parallel higher education program for women at the all-female Betsy Ross College ("BRC"), which is located thirty-five miles from DMI. This program, the Davis Women's Institute for Leadership ("DWIL"), was designed by a task force to provide the equivalent educational experience for women that men receive at DMI. DWIL does not utilize the adversative method; instead DWIL utilizes a cooperative,

confidence-building method to produce military and civilian leaders. Notwithstanding the admitted differences between the methodologies of the two programs, the district court accepted the professional opinion of the task force that "the different approach was selected principally to address the different educational needs of most women," and concluded that DWIL was a sufficient remedy.

The Court of Appeals for the Fourteenth Circuit affirmed the district court's opinion both as to liability and remedy. The court accepted the conclusion that DWIL would better serve the interests of most women and that it would offer benefits substantively comparable to those offered at DMI.

The United States Supreme Court granted certiorari, and will consider the following question in the arguments before it today:

DID THE FOURTEENTH CIRCUIT ERR IN HOLDING THAT THE ALL-MALE ADMISSIONS POLICY OF DAVIS MILITARY INSTITUTE VIOLATES THE EQUAL PROTECTION CLAUSE AND, IF NOT, DID THE FOURTEENTH CIRCUIT ERR IN HOLDING THAT THE PROPOSED REMEDY, THE DAVIS WOMEN'S INSTITUTE FOR LEADERSHIP, IS A SUFFICIENT REMEDY FOR THE EQUAL PROTECTION VIOLATION?

**RESULTS OF THE
1995 JOHN W. DAVIS COMPETITION**

FINALISTS

Courtney Camp	Andrew Harding
Mary Eade	Tracy Taylor

SEMIFINALISTS

Maria Feeley	Charles Mehler
Ranji Garrett	Karen Tracy

QUARTERFINALISTS

Robert Aliff	Dan Campbell
Curt Booth	Scott Chenevert
Anne Bumgardner	Philip Lake
Josh Burgess	Shannon Plageman
Darek Bushnaq	Amy Smoyer

BEST BRIEF NOMINEES

Robert Aliff	Shannon Plageman
Philip Lake	Tracy Taylor
Charles Mehler	

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 these individuals, the John W. Davis Moot Court Competition could never enjoy the success it has received over the years.

JUDGE MARTHA CRAIG DAUGHTREY

Judge Daughtrey received both her bachelor's and law degrees from Vanderbilt University in 1964 and 1968 respectively. She is a member of Phi Beta Kappa and the Order of the Coif. From 1968 to 1972, she was a prosecutor in the federal and state courts in Nashville. She joined the Vanderbilt law faculty in 1972 and taught there until her appointment to the Court of Criminal Appeals in 1975. In 1990, she was appointed to a vacancy on the Tennessee Supreme Court and subsequently elected to a full eight-year term. President Clinton nominated her to the Sixth Circuit United States Court of Appeals on August 6, 1993, and the nomination was confirmed by the U.S. Senate on November 20, 1993.

Judge Daughtrey has served as chair of the Judicial Administration Division of the American Bar Association and as chair of the ABA's Appellate Judges Conference. She is a past president of the National Association of Women Judges and the Women Judges Fund for Justice. From 1988 to 1990, she was a member of the Board of Directors of the Nashville Bar Association, and she has chaired various Tennessee Bar Association committees. She is a Fellow of the American Bar Foundation, the Tennessee Bar Foundation, and the Nashville Bar Foundation. From 1988 to 1992, she was a Delegate to the ABA House of Delegates and a director of the American Judicature Society. She is currently a member of the ABA Standing Committee on the ABA Commission on Women in the Profession and the Board of Editors of the ABA Journal.

Judge Daughtrey has served periodically as an adjunct professor of law at Vanderbilt University and has been a faculty member of the Appellate Judges Seminar faculty at New York University for 15 years. She is a frequent continuing education lecturer and a former member of the University of Memphis Law School Board of Visitors. In March 1991, she served as Jurist in Residence at Indiana University School of Law, and in April 1991, she was a member of the ABA sponsored delegation to Romania, to consult with the drafters of the new Rumanian constitution. She and her husband, Larry Daughtrey, have a daughter, Carran, who is a 1994 graduate of Vanderbilt Law School.

JUDGE M. BLANE MICHAEL

Judge Michael was appointed United States Circuit Judge for the Fourth Circuit on October 1, 1993 by President Clinton. He received his A.B. from West Virginia University in 1965 and received his J.D. from New York University School of Law in 1968.

Judge Michael was employed with the law firm of Sullivan & Cromwell from 1968 to 1971. From 1971 to 1972 he was an Assistant U.S. Attorney for the Southern District of New York. In 1972 he served as Special Assistant U.S. Attorney in the Northern District of West Virginia. After leaving the U.S. Attorney's office, he was a sole practitioner until 1975, and from 1975 to 1976, Judge Michael was a clerk to Honorable Robert E. Maxwell, U.S. District Court Judge for the Northern District of West Virginia. In 1977 Judge Michael became counsel to West Virginia Governor John D. Rockefeller, IV. Judge Michael worked for the law firm of Jackson & Kelly from 1981 to 1993.

Judge Michael is a member of the American and West Virginia Bar Associations and serves on the Judicial Conference Committee on the Budget. He is married to Mary Anne Eckert Michael and has a daughter Cora.

JUDGE KENNETH F. RIPPLE

Judge Ripple was appointed to the Seventh Circuit Court of Appeals on May 10, 1985 by President Reagan. He received his A.B. from Fordham University in 1965, summa cum laude in cursu honorum. Judge Ripple earned his J.D. from the University of Virginia in 1968, and his LL.M. from George Washington University, summa cum laude, in 1972. At George Washington University, his studies concentrated on administrative law and economic regulation.

Prior to his appointment to the Seventh Circuit, Judge Ripple was an attorney for the Office of General Counsel of International Business Machines Corporation in 1968. At IBM, he worked in the Corporate Law and Antitrust Compliance Departments.

In 1969, Judge Ripple became an attorney for the Office of the Judge Advocate General, Department of the Navy. From 1969 to 1970, he served as Appellate Defense Counsel with the Department. In 1970 he became an advisory attorney for the Department and in 1971 he became a Branch Head. As Branch Head, Judge Ripple was awarded the Navy Commendation Medal for professional excellence.

In 1972 Judge Ripple was appointed to the position of Legal Officer to the Supreme Court of the United State. He was appointed to the Court to inaugurate this position of staff attorney to the Court. In 1973 Judge Ripple became the Special Assistant to the Chief Justice of the United States where he assisted the Chief Justice in the analysis of opinions, the management of law clerks and other legal work required by the Chief Justice.

In 1977, Judge Ripple became a Professor of Law at the University of Notre Dame where he still conducts courses in advanced constitutional law, conflicts of law and federal courts. Prior to his judicial appointment, he maintained an appellate practice to the extent permitted by his academic duties. At the University of Notre Dame, he has received the Professor of the Year Award on several occasions.

Judge Ripple has served as the Chair and as a Reporter to the Advisory Committee on the Federal Appellate Rules; he was appointed Reporter by Chief Justice Warren Burger. He was appointed to the Military Justice Act of 1983 Advisory Commission by the Secretary of Defense in 1984.

Judge Ripple is a member of the American Law Institute; American Bar Association; Federal Bar Association; New York State Bar Association; Phi Beta Kappa; and the Supreme Court Historical Society. He is a fellow of the bars of Virginia, New York, the District of Columbia, Indiana, as well as various federal courts including the United States Supreme Court and the United States Court of Military Appeals. He is married to Mary Andrea Ripple and has three sons Gregory Patrick; Raymond Matthew; and Christopher Andrew.
