SMU | Dedman School of Law

SMU Law Review

Volume 62
Issue 5 *Special Issue*

Article 15

January 2009

Barefoot Sanders

Barbara M.G. Lynn

BAREFOOT SANDERS

Barbara M.G. Lynn

I stand to remember our friend, our colleague, our mentor, our guide and our inspiration—a one of a kind, never to be duplicated guy—Harold Barefoot Sanders.

For twenty-eight years, Barefoot administered justice to those who came before him and he did so, as our oath requires, without respect to whether he was addressing the rich or the poor, the powerful or the powerless. He did so with courage, and with insight, and with that rare and special ability to cut through the clutter and get right to the heart of the matter. All of the best lawyers knew to eliminate all obfuscation, all filler, all diversion, and tell him the facts and to fairly present the law. He was offended by injustice and unfairness and so he administered justice fairly.

Barefoot always thought ahead. If a path was blocked, he found another path. And his political insights were always sharp. He knew how opinions would read and sound—I remember an early lesson he gave me when he came by after I had made what I thought was a pretty clever comment in a sentencing proceeding. It didn't read nearly as well in the newspaper. He advised me that I might want to be a little more restrained in what I said—and I was.

Nothing was too small to escape his attention. He always had a kind word for everyone. When you were with him you always had to wait for him to catch up because he would stop and speak to everybody. At a public function, he would speak to the guests as well as the people serving dinner. At our court, even when walking was such a struggle, he didn't mind further slowing his arrival by asking our court security officers about their families. He reveled in the achievements of others—he wrote notes, he called, and he was a true cheerleader and support to his law clerk family, to dear Phyllis, to Ronnie, and to his colleagues. He was compassionate when warranted and firm when it wasn't. His wonderful smile was welcoming and caring. He did what he said he'd do and he meant the words he spoke. He loved life and he lived it fully. He was funny. When you met him, you felt special. When you knew him, you felt enhanced. When you search in vain for him, you feel lessened.

He was principled. He did what he thought was right and the consequences didn't concern him. I don't mean he liked being reversed—in fact, when he was, I think he puffed a little harder and a lot faster on those cigars he wasn't supposed to be smoking—but the guiding principle for him was doing what he thought the facts and the law required. *Tasby*,

the school desegregation case, and *Raj* and *Lelsz*, cases involving conditions for the mentally ill and retarded, were the cases that got the most attention, and they were critically important to the citizens of Texas, and he knew it. He handled them in his usual deft manner, fully considering the practical aspects of achieving the necessary results. He had thick skin, and he ignored his critics as he labored on in the vineyards of justice. But he gave the same careful and deep consideration to more limited and less high profile matters. Everybody got the fair attention of the judge.

I mean "the Judge," because that's what people called him, and in a courthouse of great judges, when people referred to "the Judge" they meant Barefoot. He was all that a judge should be—the essence of a person to whom people want to turn to resolve their most important disputes. He had all the qualities to perform the job masterfully—and he used those tools every day. He was respectful of those who came before him, he was usually patient (I hear him saying right now—Barbara move along), he was intellectually curious, and he was wise. He never developed black robe-itis.

On the organization chart of the federal judiciary, I am now and will always be, the successor to the honorable Barefoot Sanders. That's the most important credential I will ever have on my résumé. And Barefooted or not, those are giant shoes to fill. I know where he sits now—close your eyes and imagine him talking politics with God, pushing the hair out of his eyes, smiling a broad smile, and smoking a Cuban cigar (no customs restrictions in heaven, you know). We are comforted by knowing his legacy remains with us in a body of cases well decided, opinions well composed, justice well administered, and a life extraordinarily well-lived. At his investiture, his friend Sarah Hughes mentioned that if she had a son, she would have wanted him to be just like Barefoot. All of his judicial family, for whom I speak, shared that sentiment. He was like our father, brother, and our dear friend, and we were all so much better for having known and loved him. I will now give members of the judicial family an opportunity to give Barefoot one last "all rise"—law clerks and Barefoot's staff, court clerks and other court personnel, and colleague judges. Earth is a lesser place, but heaven is enhanced by Barefoot's passing.