



Hon. Dean Whipple

Senior U.S. District Judge, Western District of Missouri

by Benjamin T. Clark



Benjamin Clark graduated from the University of Iowa College of Law, where he was elected to the Order of the Coif. Clark served as one of Judge Dean Whipple's law clerks for over 10 years and currently serves as a law clerk to Chief Judge Beth Phillips. Clark also has several years of experience in private litigation.

Hard-working," "colorful," and "no-nonsense."¹ These terms capture the essence of Judge Dean Whipple, senior U.S. district judge for the Western District of Missouri.

Origins and Education

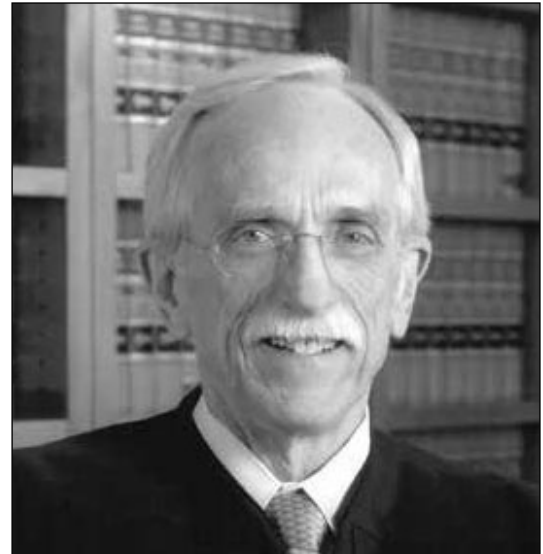
Judge Whipple was born in 1938 in Lebanon, Mo., which is in the southwestern part of the state. At an early age, he and his sister learned the value of hard work from their mom and dad. Judge Whipple's mom was a busy homemaker, and his dad worked long hours in the sheet metal business. Before his legal career, Judge Whipple helped his dad with this business and also held other interesting jobs, including owner and operator of a go-kart track in Lebanon and forest firefighter.

Judge Whipple's parents understood the importance of education and insisted that he attend college after high school.² In 1961, Judge Whipple earned a bachelor's degree in business administration and economics from Drury University, a small private university in Springfield, Mo. Judge Whipple then continued his education at the University of Tulsa College of Law in Tulsa, Okla.

At Tulsa, Judge Whipple worked a full-time job during the day and attended law school classes at night. After classes, he studied. This was an extremely busy schedule, and Judge Whipple still remembers occasionally falling asleep with a case book in hand. Judge Whipple excelled at Tulsa, earning A's and B's as a 1L.

One of Judge Whipple's friends and mentors growing up was T. Victor Jeffries, who was a well-known attorney in Lebanon. (Interestingly, Jeffries began his legal career by acquiring farmland—either by negotiation or condemnation—so that Union Electric could build the Lake of the Ozarks.) Jeffries knew that Judge Whipple wanted to return to Lebanon after graduation and recommended that he transfer to a law school in Missouri. Judge Whipple took his mentor's advice and transferred to the University of Missouri-Kansas City (UMKC) School of Law.

Shortly after beginning classes at UMKC, Judge Whipple learned for the first time that the good grades



he earned at Tulsa only transferred in as C's at UMKC. At that time, UMKC also expelled any law student with less than a C average. Judge Whipple therefore found himself at an unfamiliar school with no academic margin for error. Though this news was upsetting, it also provided a strong dose of motivation. Judge Whipple studied even harder and earned his Juris Doctorate from UMKC in 1965. During college and law school, Judge Whipple also served in the National Guard and the Army Reserve.

Prosecuting Attorney and State Court Judge

Judge Whipple returned to Lebanon after law school. Jeffries owned an abstract company and had Judge Whipple work on abstracts. Shortly thereafter, the then-prosecuting attorney for Laclede County, Wendell Evans, told Judge Whipple that it was "his turn" to be prosecuting attorney. Judge Whipple had anticipated this conversation because the youngest attorney in the area typically filled the position. In 1967, Judge Whipple became the prosecuting attorney for Laclede County. He earned an annual salary of \$6,056 and spent most of his time prosecuting cases.³ He only had a small amount of time to spend on his private practice, which mostly involved real estate and domestic work.⁴

Judge Whipple was a tough but compassionate prosecutor who believed in second chances. For example, he once obtained a conviction against a high school classmate by the name of Clifford Storm. After Storm served his time in prison, Judge Whipple loaned him money to get back on his feet. Judge Whipple also helped him find stable employment and a place to live. Storm ended up being a hard worker and productive citizen.

After Judge Whipple had been a prosecutor for several years, the state legislature created a second judgeship for Missouri's 26th Judicial Circuit. The 26th Circuit spans five counties, including Laclede County, and generally surrounds the Lake of the Ozarks. At the encouragement of his colleagues, Judge Whipple decided to run as a Republican candidate for the second judgeship position. The other Republican candidate was Norman Williams, who was also a local prosecutor.

When the judgeship was created, there was not enough time to have a primary election. As a result, the Republican committee convened in Camden County to decide whether Judge Whipple or Williams would be the party's general election candidate. After several speeches and general politicking, the committee voted. It was a tie. The committee voted again, and over and over, but each vote ended in a tie. With the committee hopelessly deadlocked, Judge Whipple had an idea: flip a coin. Whoever lost the coin toss would withdraw their candidacy and support the other individual. Williams agreed. Judge Whipple correctly called "heads" and became the candidate. If that fateful coin toss had come up tails, history would likely have been much different for Judge Whipple and for countless others that he positively impacted.

Judge Whipple prevailed in the 1974 general election and became a judge on the 26th Judicial Circuit. He served this circuit with Judge John Parrish. Judge Parrish once described Judge Whipple as "a totally honest individual. You know exactly what he thinks. People who know him appreciate that, and it's a trait he has carried forward to his professional duties."⁵ "Riding the circuit" meant a lot of travel for Judge Whipple and Judge Parrish. The farthest courthouse from Judge Whipple's house in Lebanon was 90 miles away in California, Mo.⁶ Judge Whipple eventually won reelection to the state bench twice, in 1980 and 1986.

Service on the Federal Bench

In 1987, President Reagan nominated Judge Whipple to replace the late Ross T. Roberts as a U.S. district judge for the Western District of Missouri in Kansas City. President Reagan had acted on the recommendation of then-Sens. Jack Danforth and Christopher "Kit" Bond. Danforth once recalled that of all the individuals he had recommended to serve as a federal judge, none had more heartfelt support from friends and associates than Judge Whipple.⁷ Judge Whipple was confirmed by the U.S. Senate on Dec. 8, 1987. After the vote, President Reagan personally called Judge Whipple and jokingly

asked whether he should sign the judicial commission. Judge Whipple began his service as a federal judge on December 29, 1987.

Judge Whipple presided over many significant cases during his time on the federal bench. In the summer of 1991, 19 men—mostly Italian-Americans—refused to testify before a grand jury investigating gambling and organized crime.⁸ Judge Whipple found them in contempt of court and ordered all to prison. This angered Kansas City's Italian-American community, who felt they were being unfairly targeted by the prosecutors and Judge Whipple.⁹ A group called "Basta!"—which in Italian means "Enough!"—was formed.¹⁰ The group demonstrated outside the courthouse and printed T-shirts, bumper stickers, and flyers in protest.¹¹ Judge Whipple eventually received over 1,000 postcards from the "Basta!" movement.¹² He did not understand the furor and explained that his actions were "pretty routine. Those witnesses were not handled any differently from any other recalcitrant witnesses who refuse to testify before a grand jury."¹³ The "Basta!" movement eventually dissipated, but Judge Whipple still has a "Basta!" bumper sticker on his bookshelf as a reminder.

Judge Whipple also presided over four major and long-running public institutional cases. In *Hall v. Jackson County Department of Corrections*, Judge Whipple monitored the Jackson County Jail and issued orders and fines necessary to reduce and prevent inmate overcrowding.¹⁴ In *G.L. v. Stangler*, Judge Whipple supervised the Jackson County Division of Family Services and issued orders necessary to improve the standards of care for children in child welfare custody.¹⁵ In *Tinsley v. HUD*, Judge Whipple oversaw and supervised the operations of the Housing Authority of Kansas City to ensure "decent, safe and sanitary dwellings to families of lower income[.]"¹⁶ Finally, Judge Whipple presided over the conclusion of *Jenkins v. Kansas City School District*, the well-known Kansas City school desegregation case.¹⁷

Because of Judge Whipple's authority over so many public institutions, some referred to him in jest as "The Imperial Whipple."¹⁸ In 1994, the *Kansas City Star* ran a front-page article on Judge Whipple and these high-profile cases. The article was titled "The Accidental Activist" and posited that Judge Whipple's reputation as a conservative judge seemed inconsistent with his active management of public institutions.¹⁹ Judge Whipple

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explained that he was just trying to do his job: “I don’t want to be an activist judge, I don’t feel it’s my place to run any institution. But once I’m drawn in, I’m going to do the best I can, and rectify what they force me to do.”²⁰

More recently, Judge Whipple presided over a civil case that resulted in a 4-4 split vote by the U.S. Supreme Court. In *Hawkins v. Community Bank of Raymore*,²¹ a primary issue was whether guarantors qualify as “applicants” for credit under the Equal Credit Opportunity Act. Judge Whipple held that a guarantor is not an applicant as defined by the Act and entered judgment in favor of the bank. The Eighth Circuit Court of Appeals affirmed, and the U.S. Supreme Court granted a petition for writ of certiorari. Justice Antonin Scalia participated in oral arguments on Oct. 5, 2015, but passed away prior to a decision from the High Court. On March 22, 2016, the Supreme Court issued a one-sentence per curiam opinion that affirmed the judgment “by an equally divided Court.”²² This decision is historically significant because it was the Supreme Court’s first 4-4 split decision after Justice Scalia’s death.²³

Judge Whipple served as chief judge of the Western District from January 2000 through January 2007. He then took senior status, though he continued to maintain a full criminal and civil docket until 2016. Judge Whipple was succeeded on the bench by Judge Greg Kays, who also hails from Lebanon. In 2008, Judge Kays was sworn into federal service by Judge Whipple. Judge Kays describes Judge Whipple’s exemplary career in this way: “Throughout a half-century career devoted to public service, Judge Whipple has set a high bar. Be it in his tenure as a state prosecutor, a state judge, or, for the last 30 years, as a United States District Judge, Judge Whipple has handled important cases with determination, humility, and integrity. He has brought great leadership to each institution, and each is stronger for his service. I am proud to call him a mentor and a friend.”

Judge Whipple has also been a mentor and friend to the 31 law clerks that have served for him. He taught these young lawyers a lot about the law and about life during their clerkships. One law clerk explained that “the great thing about working for him is that he likes lawyers, he likes juries, and he likes trying cases. Judge Whipple enjoys his job, and that trickles down to everyone around him. That’s why it’s such a good experience to work for him.”²⁴ Judge Whipple enjoys spending time with his judicial assistants and law clerks, and that feeling is mutual. Around 3:00 p.m. every day, Judge Whipple and his staff take a short “Coke break” and talk about pending cases, newsworthy events, and anything else of interest.

Outside the Courthouse

Judge Whipple is married to Karen Hopkins. Karen is also part of the Western District court family, having recently retired after serving 20 years as judicial assistant to Hon. Ortrie Smith. In their free time, Judge Whipple and Karen enjoy traveling, going to their favorite restaurants

around Kansas City, and watching movies at the local theater.

Judge Whipple also devotes a lot of time and attention to his physical fitness. When Judge Whipple was 39 years old, a young friend passed away from a heart attack. At that time, Judge Whipple smoked two packs of cigarettes a day and was overweight. The premature death of his friend made Judge Whipple evaluate his own health. Judge Whipple immediately quit smoking, began jogging every morning, and watched what he ate. He eventually completed many 10K races and marathons, including three Boston Marathons. More recently, Judge Whipple has taken up swimming at the local YMCA. To eat right, Judge Whipple recommends “no sugar and no seconds” (though he will make exceptions for things like glazed donuts, ice cream, and pie with whipped cream).

Judge Whipple has never forgotten his roots and regularly makes the three-hour trip from Kansas City to Lebanon. During these trips he visits with friends and family and maintains the home in which he grew up. Judge Whipple also tinkers with his antique cars, including a 1957 Chevy that his dad owned, a 1969 Pontiac Tempest, and a 1977 GMC pickup. One long-standing tradition involved Judge Whipple and his friends meeting annually for “deer camp.” This weekend trip was ostensibly to go deer hunting, but the running joke is that no deer were ever actually harmed. Deer camp was just a good excuse to catch up, enjoy the outdoors, and play poker at night.

Conclusion

Reflecting on his time as a judge, Judge Whipple is thankful for the experiences and friendships he has made. He believes that being a judge “is the best job in the world. I’m a student of the law. I love reading the law and applying it. I enjoy trial work, and I enjoy watching good trial lawyers in action.”²⁵ If Judge Whipple could offer only one piece of advice to attorneys, it would be the same that his father gave him: “Be a person of your word. Say what you mean and mean what you say.” ©

Endnotes

¹Carolyn Hoecker Luedtke, *Innovation or Illegitimacy: Remedial Receivership in Tinsley v. Kemp Public Housing Litigation*, 65 Mo. L. Rev. 655, 698 (2000); Terry Ganey, *The Judge: Hard-Working, Speedy, a Tough Sentencer*, THE ST. LOUIS POST-DISPATCH, May 11, 1997.

²Tom Jackman, *The Accidental Activist: Judge Dean Whipple Conservative by Reputation, His Rulings in Notable Cases Defy Image*, THE KANSAS CITY STAR, May 23, 1994.

³Courthouse Connection, Newsletter of the U.S. Courts, Western Missouri, Vol. 2, Issue 3, p. 3 (Sept. 2010), www.mow.uscourts.gov/sites/mow/files/Newsletter-2010-09-Vol02Iss03.pdf (last visited Sept. 10, 2019).

⁴*Id.*

⁵Jackman, *supra* note 2.

⁶Courthouse Connection, *supra* note 3, at 3.

⁷*Id.*

⁸Jackman, *supra* note 2.

⁹*Id.*

¹⁰*Id.*

¹¹*Id.*

¹²*Id.*

¹³*Id.*

¹⁴See *Hall v. Jackson Cnty. Dep't of Corrs.*, Case No. 84-1200-CV-W-DW (Order, filed Apr. 4, 2007) (setting forth factual background, granting defendants' motion to terminate consent judgment, and closing case).

¹⁵See *G.L. v. Stangler*, Case No. 77-0242-CV-W-DW (Motion for Resolution of Potential Conflict, filed April 15, 2004) (setting forth factual background).

¹⁶*Tinsley v. Hous. Auth. of Kansas City*, Case No. 89-0023-CV-W-DW (Order, filed May 1, 2013) (setting forth factual background and finding in part that "significant progress has been made to transform HAKC into a functioning housing authority that provides decent, safe and sanitary dwellings to families of lower income, in substantial compliance with all applicable laws and regulations").

¹⁷See *Jenkins v. Sch. Dist. of Kansas City*,

Missouri, Case No. 77-0420-CV-W-DW (Amended Order, filed Aug. 13, 2003) (setting forth factual background, finding that last remaining vestige of prior discrimination had been removed, and dismissing case).

¹⁸Luedtke, *supra* note 1, at 698.

¹⁹Jackman, *supra* note 2.

²⁰*Id.*

²¹*Hawkins v. Cmty. Bank of Raymore*, Case No. 12-00670-CV-W-DW (W.D. Mo.)

²²136 S. Ct. 1072 (2016).

²³TIME, *Antonin Scalia's Absence Felt as Court Ends Term*, June 27, 2016, available at: <http://time.com/4384855/antonin-scalia-supreme-court/> (last visited Sept. 11, 2019); James Dornbrook, *First Post-Scalia Split Decision Involves KC-area Bank*, KANSAS CITY BUSINESS JOURNAL, Mar. 23, 2016, <https://www.bizjournals.com/kansascity/news/2016/03/23/us-supreme-court-raymore-bank-lathrop-scalia.html> (last visited Sept. 11, 2019).

²⁴Courthouse Connection, *supra* note 3, at 3 (quoting former law clerk Barrett Vahle).

²⁵Jackman, *supra* note 2.