In memoriam: Wade H. McCree, Jr.

Law School honors esteemed judge, mentor, friend

Professor Wade H. McCree, Jr., the Lewis M. Simes Professor of Law, former solicitor general of the United States, and distinguished federal judge, died on August 30 after a brief illness. A graduate of Fisk University and Harvard Law School, Professor McCree began his judicial career in 1954 when he was appointed to the Wayne County, Michigan, Circuit Court. The first Black judge to be appointed in the state of Michigan, he won re-election to the court and, in 1961, was appointed by President John F. Kennedy to the U. S. District Court for the Eastern District of Michigan. In 1966 President Lyndon B. Johnson appointed him to the U.S. Court of Appeals for the Sixth Circuit, where he served until 1977, when he resigned to accept appointment as solicitor general. During his lifetime Professor McCree was awarded honorary degrees from more than 30 colleges and universities.

The Law School held a memorial service in the Reading Room of the Law Library on September 4, at which several of Professor McCree’s colleagues, former law clerks, and friends spoke. Excerpts from their tributes follow, in order of presentation.

Dean Lee C. Bollinger:

Wade Hampton McCree, the Lewis M. Simes Professor of Law, was our esteemed colleague and treasured teacher. For six years he graced this institution with his vast knowledge and intelligence and also with his wit, his charm, and his extraordinary kindness. He joined us toward the end of his career, after serving with high distinction in several professional roles. In countless ways, we were the beneficiaries of this remarkable life experience, which cannot begin to be captured by mere recitation of the positions he held. And for those benefits we are deeply grateful.

Wade McCree was a natural teacher. I have heard students from his classes say they had never encountered a teacher who so wanted to teach, who wanted them to learn. His door was always open, students say, which I now understand as a metaphor.

What shines most through Wade’s life, what seems most worth understanding, is not to be found so much in the cases argued and won, but in the character he retained throughout his life. His successes and distinguished appointments never seduced him into vanity, and never deterred him from acting on the principles of a true democrat, one who sees the equal worth of all people. And the burdens he carried of living in an imperfect world he was committed to change he never permitted to lead him to an unkindness and, most notably, he never allowed to still his extraordinary sense of humor, which Wade used wonderfully as a way of life and a weapon of change.

Wade McCree was the perfect citizen. Only a few people from any generation are asked to take the lead for achieving fundamental reform as well as to perform public responsibilities. Wade McCree was such a person. And what is so notable about his life is that he performed these responsibilities with such intelligence and wisdom while retaining a character that gave so much greater value to whatever he did.
Professor of Law Emeritus Allan F. Smith

Former dean of the Law School and interim president of the university:

My friendship with Wade McCree was all too brief. For me, and I suspect for many others, friendship with Wade was an ever-growing experience. Each year, almost each visit with him brought me some new insights as to the depth of his learning and wisdom, the breadth of his understanding of the human condition, the astuteness of his observations on the political and social scene in this country. Yet we learned these things about him, not because he played the pundit or held forth in patriarchal style at the coffee table, but rather because those characteristics were simply a part of the warm human being with whom we have been privileged to associate.

As a colleague on the faculty, Wade was simply superb. We old deans have visions of what we might think of as an ideal faculty. In our vision, of course, every member of the faculty would be a star in his or her own right; scholar, teacher, role model for the students. But every member would also be a person whose influence would radiate from his or her own office and envelope the entire school and its faculty with a cohesive sense of the greatness of the mission of the institution. And in our vision, that reciprocal radiation from 50 offices would produce a brilliant glow at the Law School.

Regrettably, no dean has ever put together an entire faculty of such persons. But Wade was one of those. He carried an aura of greatness and it was pervasive. He came to law teaching late in his distinguished career, but he brought to teaching the same vigor which had propelled him to such success in his varied roles of lawyer, judge, and solicitor general. He brought the freshness of the new professor, but the newness was beautifully tempered by his wide experience. He brought the will to contribute all that he could to the life of the Law School, and the students who came before him.

The Honorable William T. Coleman, Jr.

Washington, D.C., Secretary of Transportation, 1975-77:

When Wade became solicitor general in 1977, he found his road map for the job in the 1890 Committee Report which accompanied the Act which created the office: “We propose to have a man of sufficient learning, ability, and experience that he can be sent...into any court wherever the Government has an interest in litigation, and there present the case of the United States as it should be presented.”

History will place Wade with the greats of the solicitor general’s office — Archibald Cox, John W. Davis, Robert Jackson, Thurgood Marshall, and Dean Erwin Griswold.

Wade took seriously his duty to see that the government did not press unfairly or wrongly, for he knew the United States wins its point whenever justice reigns in the Court. Or, in the words of the Supreme Court itself, the interest of the national sovereign “is not that it shall win a case, but that justice shall be done.”

Wade was a private man, a family man. His help to the less fortunate was constant, consistent and always, yet done so quietly. He opened doors and channels for all of us but we never learned it from him.

His mind, retentive, deep, and profound, made him of genius caliber. But mere genius is not enough to be an excellent lawyer, an excellent judge, or even an excellent solicitor general. My groping for that indispensable talent which made him a great public man, is that he had critical intelligence. He thus did for himself in thought, writing, and oral argument what Maxwell Perkins had to do for Thomas Wolfe.

As in King Lear Act V, we have come full circle. Wade’s circle, like that of Leonardo da Vinci, was steady, required no mechanical help, and was perfect. But unlike Leonardo, he still left so much over for others: his humor, his courage, a wonderful wife and three wonderful children, many superb legal opinions, and a group of young lawyers who as his law clerks or students were touched with his fire.

Ronald M. Gould, J.D. 1973

Seattle, Washington; law clerk to Judge McCree, 1973-74:

To serve as Judge McCree’s clerk was a warm and personal experience. But it was more. No one who served in that capacity would trade it for anything.

Judge McCree was a model of the common law appellate judge. He was a principled decision maker who sought to understand the facts determined by the trial court or jury, to apply the law honestly, and to consider whether justice had been done. As a former trial court judge, he was sensitive to the appellate court’s proper role in a larger system. He was searching in his inquiries to counsel at argument. He did not gratuitously write philosophies, but he did not hesitate to state broad, even universal, principles of law when necessary to decide
the case. Always he was ready
to learn from argument.

There were those who said
that Judge McCree never had for-
gotten anything that he once had
learned. He was able to draw
upon history, literature, it often
seemed the wisdom of the ages, in
aid of his analysis. The breadth of
his mind and recall was special.
Who here truly knew his limits?
Words such as "scholar," "jurist,"
"genius," even "friend," — these
cannot wholly capture the man.

One could ask Judge McCree a
question about our Constitution,
for example, and his response
might include comment on such
rich and diverse sources as his
knowledge of life in the various
colonies, European political and
constitutional theory of prior
centuries, the predecessor views
of Greek thinkers in Pericles'
Athens, or the beginnings of
codified law in the codes of
Hammurabi.

Each part of his wisdom was
like a precious gem. But he did not
hoard wisdom for personal profit.
Nor did he use his wisdom for
display. Rather, he gave away
these gems freely to others
who would understand them.
And his store of wisdom seemed
exhaustable.

Howard L. Boigon, J.D. 1971

Denver, Colorado; law clerk to Judge
McCree, 1971-73:

I never expected to deliver, or
even attend, a memorial reflection
on Judge McCree. To me, Judge
McCree was always larger than life
— not quite mortal. I expected him
to go on forever.

In courtroom encounters, as in
all his personal relationships, he
was unfailingly courteous, civil,
and dignified. He controlled a
courtroom by the force of his logic
and personality, not by raising
his voice.

He was a wonderful teacher
and mentor. He taught me to
appreciate the power and beauty
of language, the wisdom of
brevity, the necessity of precision.

But, he taught us much more
than simply how to put words on
paper. He taught us about justice
and the judicial system. Despite —
or perhaps because of — per-
sonal indignities that he had
experienced, he had a passionate
commitment to doing justice, to
according each person his just due
under the law. While recognizing
the imperfections in our system,
and working to correct these
imperfections, he was committed
to making the system work, and
he had faith that we could all make
it work. He taught us about public
service, about our responsibility
to give of ourselves to better the
human condition. His life was a
testament to the value of these
precepts.

I have heard him described
by others as a lawyer's lawyer.
To me, he was that, but he was
also a judge's judge, a poet and
a scholar, a philosopher and a
teacher, a great and good man
whose works and spirit will live
on in all of us.

Law School Professor
David L. Chambers:

Like many others, over the last
six years, I too became a student of
Wade's.

I went into Wade's office this
morning as I had done so many
times. Sunshine was warming the
chair where he always sat. I saw
again the familiar pictures of Wade
with Aaron, his grandson, and
Wade with President Carter.

Our offices are almost next to
each other. "David, do you have
just a minute?" he would ask as I
passed his always open door. And I would come in and continue my education. "I've just come back from Virginia," he would say or "Washington" or "Kalamazoo." "I bring you greetings from your old student so-and-so. I also saw Judge x. He's looking a little tired" — and then I'd hear about the judge and the judge's father and the judge's sister who was also a lawyer and about the judge's notable achievements. For me, the most powerful stories were of Black judges and Black lawyers, many of whom I had heard about for years and nearly all of whom Wade knew well, the revolutionaries who opened opportunities for so many others, opportunities we are beginning to take for granted. I have thought about Wade's stories over the last few days and tried to think of stories that Wade told about himself but in fact very few were about himself. Wade was a modest man about his own achievements.

I learned a great deal from listening to Wade and what I learned were not ideas alone but an attitude and a tone to try to carry through life. He managed to see something praiseworthy in almost everyone he spoke about. He was never sarcastic, never cynical, never bitter, even though he had seen much in life to justify all those reactions. He had dignity without pretension, and wielded authority without arrogance. We who are here — all of us who are lawyers — have much to learn from his example.

In his last year, Wade went through much physical suffering and discomfort that, quite characteristically, he kept to himself. But there were limits to the discomfort he could suffer. One day after he entered the hospital, he had not spoken for at least a day. A nurse came in and needed to move Wade into a position that caused great pain. As she worked, she chatted to him amiably. "Does this hurt, Judge McCree?" she asked rhetorically. Wade slowly opened his eyes and looked at her. "You're damned right it hurts," he said and lapsed back into silence. Does it hurt to have you gone, Wade? Does it hurt to know you will not come back again? You're damned right it hurts.

**The Honorable Otis M. Smith**

*Detroit, former justice of the Supreme Court of Michigan and regent of the University of Michigan; general counsel to General Motors Corporation, 1977-83:*

My friendship with Professor McCree goes back more than 30 years and was based upon the sharing of a profession, an undergraduate school, a culture, and a racial identity. For these reasons, and perhaps others, it has been suggested that I might add a degree of relevance to my reflections about Wade McCree by relating them to a subject which is topically sensitive to this campus at this time. The topic is racism.

First, let me try to sketch in Wade's view of the world as I interpreted it. He was born into a strong Afro-American family of which he was justly proud, not just because they were Black but because they were intelligent and strong in an environment that had not always encouraged it.

As the world enfolded to him, the young Wade McCree, who was taught by his parents to have a sense of self-worth, came to find out that the world was one and that it was peopled by a large mass of humanity who had interesting but not decisive differences of race, culture, nationality, religion, class, and so on, and if there were any elite of this world, it was based upon character and intellect and little else.

So I doubt if he ever looked in the mirror and thought he was inferior because his skin was dark, nor did he ever look at a companion whose skin was white and assume that the companion was superior. He learned at an early age that he could compete with anyone, given the opportunity.

Now what about the evidence of racism that cropped up on campus this spring? I know it caused him considerable stress because he said so. But he was never one to climb the soapbox and decry the occurrence. He felt just as deeply about it as anybody who did. It was just not his meter.

As a liberal in the classic sense, he would relentlessly search out the facts and follow them to the conclusion in which they were pointed.

But he would caution against the self-defeating, self-fulfilling rhetoric, that because of the occasional outcropping of ignorance about race that we should take to the platform and to the streets and yell that we have made no progress in our fight against racism. It simply is not true. Progress is always uneven but we are winning the war. This is what I think Professor McCree would say.

More importantly, he would be up and doing. And if you loved and respected him as I expect you did, then be up and doing in the causes he supported and extend his efforts beyond his life.

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*A chair in honor of Professor McCree is being established at the Law School. Memorial contributions earmarked for the chair may be sent to the Law School Fund, Hutchins Hall, Ann Arbor, MI 48109-1215.*