

WADE H. MCCREE, JR.: BORN TO BE A JUDGE

*Pierce Lively**

If there are “natural” or “born” judges, Wade McCree was surely one. To a degree that is rarely experienced, he possessed a combination of the qualities usually identified with outstanding judges.

In the first place, Wade McCree had a marvelously agile and inquiring mind. The entire realm of human knowledge interested him, and he roamed broadly in his search for understanding. Fortunately he had parents who encouraged his scholarly pursuits and provided opportunities for superior schooling. Thus, he attended the celebrated Boston Latin School and developed a love of poetry and a fascination with ancient history and mythology while acquiring a strong foundation in all the humanities. His college and law school studies were a natural development and extension of this solid educational base.

Of course, Wade McCree’s education did not end with his Harvard Law degree. He continued to read widely and to learn from others whose experiences had been different from his own. He was inquisitive without being curious and was always willing to listen. Because Wade had a remarkable memory, the vast store of knowledge that he accumulated always seemed available for retrieval and use. In court conferences he was often the only panel member who could recall the previous decision of the Court of Appeals or the Supreme Court that most nearly touched the matters at issue in a particular case. His ability to recite poetry and song lyrics, both familiar and obscure, was legendary.

While a strong intellect and a good memory are surely traits that make any judge’s work easier, more is needed. Wade McCree had a quality of humanity that never permitted him to be arrogant or unfeeling. As a judge, he saw law as much more than a body of abstract principles. While he relished the intellectual challenges of a difficult case, he never lost sight of the fact that the litigants were real people and that they, as well as future generations of real people, would be affected by his decisions.

Judicial temperament is difficult to define, but Wade McCree had it. He was patient and courteous in his dealings with attorneys and

* Chief Judge, United States Court of Appeals for the Sixth Circuit. — Ed.

court personnel, and was apparently incapable of being flustered by any unexpected turn of events. He pursued decisions by a methodical process until satisfied and never rushed to judgment. Much is written about how judges deal with the built-in biases that all humans have. Wade McCree appeared to deal with whatever biases he had by practicing a rigorous self-discipline that required him to view even the most emotion-laden legal disputes with near-total objectivity. His colleagues and friends did not only admire his objectivity; they were amazed and frequently put to shame by it.

I never knew Wade McCree as a trial judge, but he built a splendid reputation in that role. However, I feel that he really came into his own as an appellate judge. He added greatly to the collegiality of the Court of Appeals by his soft-spoken approach to controversy and his ability to stand firm on principle without offending those with whom he disagreed. His efforts to relieve the tension of a heated debate with bits of doggerel or a hastily written limerick endeared him to all who worked with him. These are qualities that can make the difference between a court where the judges merely tolerate one another, making no effort to know and accommodate each other's needs, and one that can truly be considered a "court family."

An appellate court speaks through its written opinions, and here Wade McCree truly excelled. He wrote with precision and clarity. Never satisfied to go with *a* right word or phrase, he always sought *the* right word or phrase to best describe a particular issue or circumstance. This streak of perfectionism reflected Wade's lifelong love affair with the English language. Throughout his life, reading, speaking, and writing provided the sort of relaxation that others find in various games and hobbies. Wade was happy as an appellate judge, in part because the work provided daily challenges to his ability as a logical thinker and writer, and satisfaction when those challenges were successfully met.

Wade McCree's formal judicial career ended with his appointment as Solicitor General of the United States in 1977. However, no other lawyer has an opportunity to participate in the development of law, particularly constitutional law, equal to that of the Solicitor General. It is logical to believe that Wade's briefs and arguments in the Supreme Court from 1977 to 1981 had a significant impact on many of the most important decisions of that period. In a sense, then, he continued to influence the end result of the litigation process even after he left the bench.

Litigants and lawyers who appeared before Judge McCree, colleagues and court personnel who had close daily contact with him, and

many who had only casual encounters with him, were impressed by his fairness, his warmth and understanding, and the dignity with which he conducted himself. He was surely born to be a judge.