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*United States Court of Appeals for the District of Columbia Circuit*

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## WADE H. McCREE, JR.: A MODEL OF EXCELLENCE

*Harry T. Edwards\**

If an important purpose of life is to create something more enduring than yourself, then Wade McCree was a fulfilled person. The measure of his life is reflected in part by his quite extraordinary career, which included four years as an officer in the United States Army, four years as a successful private practitioner, nearly a decade in Michigan government (as a Commissioner of the state Workmen's Compensation Board and a Circuit Judge), more than fifteen years as a federal judge (first on the District Court and then on the Court of Appeals), a term as Solicitor General of the United States, several assignments as a Special Master for the United States Supreme Court and six years as the Lewis M. Simes Professor of Law at the University of Michigan. Many members of our profession would be satisfied with any *one* of these achievements. Most lawyers can only dream about a full career of the sort experienced by Judge McCree. But to stop here is to miss the point about Wade McCree, because he was so much more than his resume.

Judge McCree reflected excellence. He possessed great intellect, which he projected with enormous grace, dignity and charm. He was cautious, skeptical and probing in his work, never looking for easy answers and always willing to accept the challenge of contrary views. But he was also a doer, fully confident in his ability to reach satisfactory results in his work. He proved a lot about human capacity, not just as a profound "role model" for young Blacks seeking to achieve in professional careers, but to all who came in contact with him.

I remember my mother talking about Wade McCree when I was a teenager. She and her sisters had attended college with "Wade" at Fisk University, and my mother often recounted the achievements of Judge McCree as if to prove to me that it was possible. It was somewhat ironic for me when, years later, I had the opportunity to teach Judge McCree's daughter, Kathy, at the University of Michigan Law School. I recall Kathy once saying to me that I had helped her most as a role model; in watching me, she said, she came to understand and

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believe in her own many talents. It dawned on me then that what Kathy said to me is what I had always felt about her father. The difference is that I could not possibly provide the model for Kathy that her father had been for me.

Judge McCree was far smarter and more accomplished than most people with whom he came in contact. But he never sought to use his intellect as a club in human dealings. And he never flaunted power or posed as a celebrity, despite the numerous positions of status and authority that he assumed in public life. Nonetheless, even for those of us who counted him as a friend, Judge McCree could be a formidable presence. I think that he understood this because he always interacted with colleagues in a way that was reassuring. My wife recalls such an occasion when she was working as an attorney with the Justice Department during Judge McCree's tenure as Solicitor General.

As Solicitor General, Judge McCree was occasionally called upon to resolve disagreements between different segments of the government over whether the United States should participate as *amicus curiae* in the Supreme Court in a particular case. Early in my wife's career as a Civil Rights Division appellate attorney, she had written a recommendation for such participation in a case where the Justice Department Criminal Division opposed filing an *amicus* brief, fearing that the Supreme Court might broaden one of the principles at issue in a way adverse to other criminal cases. Judge McCree scheduled a meeting to discuss the problem. Thinking that such sessions only involved the division heads, my wife was astonished when Judge McCree requested the presence of the line attorneys who had worked on the case, as well as the appellate section chiefs and the respective Assistant Attorneys General of the Civil Rights and Criminal Divisions. Her recollection of Judge McCree at the meeting remains vivid nearly a decade later.

The Judge carried extra chairs into his office, met and shook hands with every person present, and then sat listening with intense concentration as each attorney, including the most junior, expressed her or his views on the case. Judge McCree accorded precisely the same respect and consideration to a neophyte civil rights lawyer as to an Assistant Attorney General — and with such grace that the supervisors were in no way affronted. After a few probing questions, Judge McCree concluded the session, thanking everyone for their contributions, and shaking hands again around the room. My wife later reflected that the recognition and appreciation of the line attorneys' efforts demonstrated by Judge McCree's behavior at such meetings accomplished more for Justice Department morale than ever could have come from formal awards or commendations.

One of the reasons why Judge McCree was so effective in his dealings with people was because he was a marvelous raconteur. He had an extraordinary capacity to remember names, places, times and events; I often thought that he was a trivia buff or a frustrated historian, or both. In any event, he was always able to lighten an exchange with a clever anecdote or a pithy story.

It seems terribly fitting that, after years of devoted public service, Judge McCree ended his career in academia. He believed that "legal scholars have had a very significant impact on the development of American law in this century." *Partners in the Process: The Academy and the Courts*, 37 *Wash. & Lee L. Rev.* 1041 (1980). He once observed that "[j]udges principally concern themselves with deciding cases and controversies, but they always know that the academicians are looking over their shoulders to see whether their decisions are consistent with precedent and legal analysis. This symbiosis of academicians and judges permits our law to grow responsibly." *Commentary*, 1979 *Wash. U. L.Q.* 417. Not surprisingly, Judge McCree urged his students to reject the notion that a legal education prepares one for a trade. In a commencement address at the University of Colorado in May of 1987, he said:

I prefer to think of the law as one of the liberal arts: liberal because it must be informed by the humanities and the social sciences, and art, because the principal task of a lawyer is dealing with uncertainties, identifying them and crafting a response based upon his knowledge of structure even if he is ignorant of content.

As one might expect, Judge McCree was an esteemed teacher. Shortly after his death, the student newspaper at the University of Michigan quoted the law school dean, Lee Bollinger, as saying that "many students . . . found Judge McCree to be the best professor they ever had." One student reportedly said that Judge McCree "was by far my favorite teacher at the law school. He was very soft-spoken, always listening first. He often met a question with more questions." One of my former law clerks, who had Judge McCree as his teacher at Michigan, echoed these sentiments. None of this is surprising. Excellence shines.

Judge McCree left us too soon. He had so much to give, so much learning to share and wisdom to impart. When I was told of the Judge's death, I wrote to Mrs. McCree that "I was stunned," because "I was simply not ready for him to leave us." In selfish terms, I felt cheated; a silly feeling, I suppose, but so real when one is reflecting on the loss of a man so great as Judge McCree. When Kathy and I talked, she expressed disappointment and frustration over not having

had more time to “discuss things” with her father during the final months of his illness. I know the feeling too well, having experienced it with the death of my mother. When you finally know the questions to ask and you are secure enough to hear the answers, your parent is gone before you can engage the dialogue. But I told Kathy that she was more fortunate than many because she probably already knew what her father would have said in response to most of her queries.

Some people are renowned because they create great art, music or literature that endures beyond their lifetimes. Wade McCree’s legacy is a model of excellence. It will endure not only because of the enormity of his successes, but because of the dignity, integrity, grace and sense of fairness that underscored every aspect of his life.