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Chief Judge Walker Takes Helm of Circuit

Steps in as Judge Winter Assumes Senior Status

BY MARK HAMBLETT

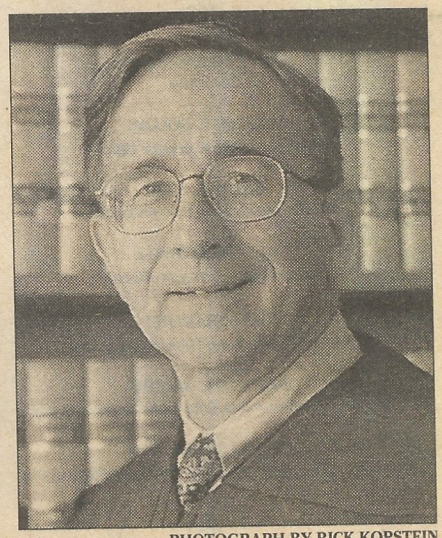
AFTER 18 YEARS on the U.S. Court of Appeals for the Second Circuit, and three years as chief judge, Ralph K. Winter has assumed senior status on the court.

In a transition that took place over the weekend, Judge John M. Walker Jr. became the circuit's new chief, responsible for the administrative oversight of the circuit and its six districts, which range from Connecticut to western New York.

Chief Judge Walker is facing a dramatically different circumstance from that which Chief Judge Winter confronted when he assumed the helm in July 1997.

By 1997, a political stalemate in Washington, D.C., that blocked the confirmation of judges to fill a host of vacancies throughout the country had hit the Second Circuit particularly hard. Chief Judge Winter was forced to declare a judicial emergency and assemble panels that included only one member of the Second Circuit Court of Appeal.

"It was an unusual situation in that for quite a while, Judge [Amalya] Kearse and I had between us more years on the court than the entire rest of the court," Chief Judge Winter said Friday. "But we eventually went from eight judges to 13, and we did so very smoothly. Bringing on five new judges in a short period of time can be very difficult, but fortunately we had some splendid judges nominated and they fit right in."



PHOTOGRAPH BY RICK KOPSTEIN

Judge Walker

Chief Judge Winter, 65, was a professor at Yale Law School, his alma mater, from 1962 until he was sworn in at the Second Circuit in 1982. He says he is

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Judge Walker Takes Circuit's Helm from Judge Winter

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proud to serve on a court with such a rich and respected history, and he admits to being "very sentimental" as he looks back to 1961, when he was Thurgood Marshall's first clerk in the Second Circuit. Just recently, Justice Marshall's widow, Cissy, gave Chief Judge Winter a tie bearing the scales of justice.

Judicial Controversies

For the last year, Chief Judge Winter has served as Chair of the Executive Committee of the Judicial Conference of the United States.

"I did it for only for a year and thought of myself as a caretaker," he said. "But we became engulfed in two controversies."

The first was the refusal of the conference's financial disclosure committee to release judges' financial forms to an on-line Internet news company.

"The executive committee strongly opposed their decision," he said. "I thought their position was inconsistent with the statute. When the time came, we produced [the forms], and we did so under new regulations that allowed judges to redact certain things, principally addresses. I think the regulations we wrote serve the public interest."

The second controversy emerged near the end of Chief Judge Winter's tenure this summer, with proposed legislation in Congress that would impose strict oversight on the reimbursement of judges for travel and other expenses in attending seminars and legal forums.

The Executive Committee released a statement warning of the possible chilling effects of the legislation, but also said it wanted an opportunity to study the problem with deliberation.

"The legislation pending in Congress is very bad," Chief Judge Winter said. "It would prevent judges from being reimbursed for any kind of seminar unless the Federal Judicial Center looked into the content of conference, listed the litigation activity of every sponsor and every presenter. This is just going to stop judges from going to seminars."

Like Herding Cats

Chief Judge Walker, 59, comes to the job after serving almost 11 years on the Second Circuit. A graduate of University of Michigan Law School, his first job was State Counsel to the Republic of Botswana. After that he went into private practice, served as an Assistant U.S. Attorney in the Southern District and then became an associate, and later a partner, at Carter, Ledyard & Milburn.

The cousin of former President George (Herbert Walker) Bush and thus second cousin of the current Republican nominee for President, George W. Bush, Judge Walker served on the bench in the Southern District from 1985 to 1989, when President Bush nominated him for the Second Circuit.

As Chief Judge, he is chairman of the Second Circuit's Judicial Council, and is largely responsible for the smooth running of the courts in the circuit, including the logistics of building management and construction. He is also responsible for making sure that the judges get what they need in terms of support staff and facilities.

The circuit also has about 2,000 employees under its wings.

"It's hard to call it a chain of command," Chief Judge Walker said. Smiling, he said the job of overseeing independent, Article III judges with lifetime tenure has been likened to "holding the reins with nothing at the other end. Or, as someone once described it, herding cats."

Chief Judge Walker said the highest priorities for the circuit are a new federal courthouse in Buffalo and the restoration of 40 Foley Square, a 60 year-old courthouse that he said was badly in need of renovation, and was maintained "on a shoestring."

And he hopes that despite the need for security, he can "get the unattractive concrete barriers" that surround the courthouse replaced by posts or something more suitable. Lamentably, he said, the closing of Pearl Street to protect against a terrorist attack is something that is unlikely to change anytime soon.

Aside from pressing for infrastructure improvements and "making sure judges get what they need to function effectively," Chief Judge Walker said his new position calls for some delicacy, especially in setting the circuit's internal policy.

"The Chief Judge is also responsible for setting a tone and using whatever diplomatic skills [he] may have to get people to accept ideas and practices," he said, adding that it is also important for the chief to "educate the public about what courts do."

Chief Judge Walker is also keeping an eye on Washington, D.C., where he is watching, skeptically, a bill that would add two new positions to the circuit bench, to bring the full complement of judges to 15.

"That's a request that has been pending for years," he said. "And I'm doubtful that any action is going to be taken in an election year."

Another matter that Chief Judge Walker said is unlikely to be resolved this year is the filling of the vacancy created by Judge Winter's decision to take senior status.

In the meantime, Chief Judge Walker said he would continue his practice of teaching as an adjunct professor at New York University School of Law and a visiting lecturer at Yale Law School.