

Matters of the Heart

Judge Sharon J. Waters of the Riverside County Superior Court gave up a career in social work because she thought her emotional makeup would render her ineffective. But lawyers say she has brought that empathy to the bench.



By Pat Alston

Daily Journal Staff Writer

RIVERSIDE - Superior Court Judge Sharon J. Waters might have become a social worker had it not been for her heart.

As an undergraduate, Waters was leaning toward social work but was afraid her emotional makeup - "my heart" - would undermine her effectiveness in the profession.

So she decided to build on the credits she had earned in several elective political-science classes. Encouraged by one of her professors, she gravitated toward the law.

As a young attorney, Waters became involved in two landmark freedom-of-information cases that opened more criminal-court proceedings to the public.

She later worked as an attorney for the 4th District Court of Appeal and continued with appellate work in private practice. In the past 12 years, she has divided her time between her judicial duties and family commitments. She helps care for her invalid mother.

Through it all, she has never lost her heart, according to attorneys who have known her for many years.

"She's a tremendously compassionate person," said her former law partner, Douglas M. Elwell, now assistant presiding judge of San Bernardino County Superior Court.

Waters has that "rare quality" of being realistic, pragmatic and compassionate at the same time, Elwell said.

"I joke sometimes that, if you really want to track down Sharon Waters, just look for the wet footprints, because she really does walk on water," he said.

"She's a tremendous human being," Elwell said.

"She's a people person," said David G. Moore of Reid & Hellyer in Riverside.

Waters, 55, was born in Hawthorne but, as the youngest of four children of a career Air Force officer, grew up on or near military bases from Kansas to Guam.

First grade brought stability, when her father was placed in charge of the ROTC program in Evanston, Ind. The family stayed there for four years. Then came more moves.

Waters graduated from high school in Kentucky, where her dad was assigned to an Air Force detachment at Fort Campbell, an old Army outpost.

At his urging, she returned to the Golden State and enrolled at California State University, Long Beach. There came a time, however, when she didn't know what she wanted to do, vacillating between journalism and social work.

"I almost dropped out of school," she said.

Her parents didn't care which field of study she chose.

"Just get the damn piece of paper," she said they told her.

One day, a professor asked if she had ever thought about the law as a career.

"No," she said.

"You should," he said.

Diploma firmly in hand, she decided to see if the law would be a good fit for her by taking a job as a file clerk at Cohen, Stokke, Owen & Davis in Santa Ana. A year later, she enrolled at the McGeorge School of Law in Sacramento.

During her second year of classes, she began clerking for Ingoglia, Marskey & Kearney, a Sacramento firm. She stayed with them until she graduated and passed the State Bar Exam in 1981.

Waters was looking for "a sense of community," she said, when she moved to Riverside early the next year. She joined Thompson & Colegate, a large insurance litigation defense firm that also handled probate and business litigation, employment law, real estate disputes and First Amendment issues. One of the firm's clients was the Riverside Press-Enterprise.

Soon, she was involved in the newspaper's appeal of the Superior Court's refusal to release transcripts of jury selection in a death-penalty case. The newspaper had been barred from most of those proceedings. The case made its way to the U.S. Supreme Court, which unanimously held that, with rare exceptions, voir dire examination of prospective jurors should be open to the public. *Press-Enterprise v. Superior Court*, 464 U.S. 501 (1984).

Her boss, James D. Ward, who later became an associate justice of the 4th District Court of Appeal, asked her to review the briefs on the merits and make sure the citations were correct. As was her nature, she said, she took it a step further.

"I had ideas, opinions," she said with a smile.

"So when I was reviewing the briefs, I got a little more involved and made suggestions on language changes."

Although she had not been admitted to practice before the Court, her contributions earned her an acknowledgement in the briefs.

"I became a footnote in history," she said.

She had a more substantial role in a second Press-Enterprise lawsuit arising over access to a preliminary hearing in a capital case. It took Waters and lead associate John A. Boyd from the trial court to Washington. *Press-Enterprise v. Superior Court*, 478 U.S. 1 (1986).

"I used to sue this court regularly," she said with a laugh.

The U.S. Supreme Court held the First Amendment right of access to criminal proceedings applies to preliminary hearings unless there is a "substantial probability" that such access would compromise a defendant's right to a fair trial.

"I should have retired then," Waters said, "because who would ever get to go to the [U.S.] Supreme Court - and then with two cases?"

In 1987, she opened her own appellate practice in Riverside. The next year, she became a research attorney for Justice Thomas E. Hollenhorst of the 4th District Court of Appeal.

"It was a fabulous experience," she said of her five years with the appellate court. "Most of my work as an appellate lawyer had been in civil, because that's what we did at Thompson & Colegate. ... Justice Hollenhorst had me doing everything."

It was at the 4th District that she met Elwell, a research attorney for then-Justice Robert J. Timlin. Elwell had applied for the bench and had gone through the vetting process by the Commission on Judicial Nominees Evaluation when Waters suggested they join forces. He was so enthused with the idea of forging a partnership with "a person I greatly admire," he said, that he wrote a Dear John letter to the appointments secretary.

"I withdrew my name," he said.

They remained partners at Waters and Elwell for two and a half years, until he got "the itch again," he said, to take the bench. When Elwell was appointed to the San Bernardino County Superior Court in November 1995, Waters returned to a solo practice. Two years later, it was her turn. Gov. Pete Wilson appointed Waters to the Riverside County Municipal Court in 1997. She was elevated by unification to the Superior Court the following year.

Since that time, she has presided over mostly civil and criminal cases. She also has served in a number of administrative roles, including presiding judge in 2005 and 2006.

At the end of her term, she could have filled a vacant slot in family law with any one of the county's 70 or so bench officers, according to family-law attorney William P. Bratton of Bratton & Bratton. Finding no takers, however, she volunteered herself.

"I was very impressed," Bratton said. "It's one of the toughest assignments a judicial officer can have. It's a wide area of law; there's a lot of information to know."

Despite her lack of family-law experience, she handled difficult situations, such as custody disputes, "with great wisdom," the Riverside lawyer said.

After 18 months in that assignment, Waters returned to a civil assignment in September.

"We miss her very much," Bratton said.

Like many of Riverside's civil-court judges, Waters divides her day between civil and criminal matters to help ease the county's serious backlog of criminal cases.

Prosecutors who have appeared before her say she is a very bright judge who makes well-reasoned decisions.

"I don't agree with some of the decisions she makes, but I've always thought she's done her best to be fair to everyone," said Deputy District Attorney Elan B. Zektser, who has tried four cases in her courtroom this year.

"She is very thoughtful in her decisions," Zektser said.

"[She] seems like she really knows her stuff," said Deputy District Attorney William E. Robinson, who tried an attempted murder case, his first trial in her courtroom, a month ago.

Although the jury could not reach a verdict, Robinson said he thought he got a "very fair" trial from Waters "even if the rulings went against me."

"She treated both [me] and the defense lawyer equally well," the prosecutor said.

"She seems like ... a genuinely nice person, which I appreciate," he said.

After a long day in court, Waters rushes home to provide respite for her sister, who cares for their mother during the day.

"I worry about my sister because she doesn't get the same opportunity to get away and interact with people," Waters said.

The judge readily admits she's a workaholic - both on and off the bench. Home-improvement projects are a great stress-reliever.

"It's such a different type of task from what I do at work," she said, "it's a break."

"I don't need to go to a movie to get a break," she said. "I don't need to get out of town. ... Just getting my brain focused in a different area is what does it."

And when she really needs to unwind, she said, "I come to work!"

Career Highlights: Presiding judge, Riverside County Superior Court, 2005-06; elevated by unification to the Superior Court, 1998; appointed by Gov. Pete Wilson to Riverside County Municipal Court, 1997; sole practitioner, 1995-97; partner, Waters & Elwell, 1993-95; research attorney for Justice Thomas E. Hollenhorst, 4th District Court of Appeal, 1988-93; sole practitioner, 1987-88; associate, Thompson & Colegate, 1982-87 Law School: McGeorge School of Law, 1981 Age: 55

Here are some of Judge Waters' recent cases and the lawyers involved:

People v. Ahmed, RIF145548 - attempted murder with use of a firearm causing great bodily injury

For the prosecution: Amy L. Glaudini, district attorney's office

For the defense: Ryan G. Markson, Riverside

People v. Harper, RIF133493 - domestic violence

For the prosecution: Sandra J. Jeon, district attorney's office

For the defense: Christine M. Affrunti, public defender's office

People v. Thomas, RIF145464 - DUI causing bodily injury

For the prosecution: Jon M. Brandon, district attorney's office

For the defense: Jennifer A. Mullins, public defender's office

People v. Williams, RIF126231 - assault with a firearm

For the prosecution: Bryan F. Boutwell, district attorney's office

For the defense: Brian G. Cosgrove, public defender's office

People v. Avila, RIF133548 - child sexual assault

For the prosecution: Elan B. Zektser, district attorney's office

For the defense: Melainee M. Collins, public defender's office

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