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THE WALKING JUDGE FROM ALABAMA

*The Honorable Pamela Willis Baschab**

Unless you have been there, the humidity and heat in South Alabama are unimaginable. Even during the last days of May, the sun bears down and the heat rises from the asphalt in undulating waves. Anyone who would walk along the highway at noon on the outskirts of Mobile would have to have a very good reason. And I did. Last year I trudged along Highway 31, carrying a walking stick with a sign, an American flag, and an Alabama flag. I was drenched in sweat and sunburned. Exhausted but elated to be nearing the end of my long journey. Two months previously on a cold and rainy day in March, I had stood on the Alabama-Tennessee state line preparing for the first steps of a 411 mile walk from one end of my state to the other. I had a very good reason. I was going to save our courts. Each step was a rebuke against the moneychangers who had taken over the temple of our courts by buying and selling judgeships at the highest levels of the Alabama Supreme Court.

My journey actually started long before the walk. It was the culmination of years as an elected judge serving at every level of Alabama's judiciary. I knew from the inside that Alabama's judiciary had become totally dependent on special interest money.

Alabama elects its judges in a party primary which yields the nominee whose name goes on a November general election ballot. Throughout most of its history, Alabama was a solidly Democrat state—to such an extent that the Democratic primary determined who the judge would be. In the last fifteen years, the Republican Party has strengthened, leading to a two party system and hotly contested elections. When I ran as a Republican in 1988 for a lower trial court judgeship, I ran as an underdog candidate expecting to lose to the favored Democrat unless I could pull off a grass roots upset. Judicial elections, if contested at all, had generally been low-key and dignified with little or no actual campaigning. I pulled out all the stops. I got a logo and a slogan, put out 5000 yard signs, printed brochures, attended fish fries, and went door to door. Very little money went into my successful campaign. Grass roots efforts clinched my elections first to the district court and

* Judge Baschab sits on the Alabama Criminal Court of Appeals.

later to the circuit court in my fast growing home county on the Alabama Coast.

In 1996 a retiring judge left a vacancy on the Alabama Court of Criminal Appeals. Campaigning for this state-wide position made grass roots effort less feasible. I traveled across the state to political forums, visiting sixty of Alabama's sixty-seven county courthouses. I had a billboard in Birmingham, sent a newsletter to Republicans, and won against the Democrat after spending \$90,000.

It was during this campaign that I first became aware of the rising tide of special interest influence that, in four short years, would inundate our state with the most expensive judicial elections in America. Along with me on the campaign trail was a candidate for a seat on the supreme court. His candidacy was being handled by a political consultant from Texas, and Texas size donations were pouring into his coffers as well as the coffers of his opponent. Millions were donated to the two mud-slinging candidates. The Republican was supported by business interests funneled through the Business Council of Alabama. These business interests had brought in Texas consultants to help. The Democrat was supported by the "greedy trial lawyers." The Texas consultants had turned the Texas supreme court around to a majority Republican (read "business oriented") court. The trial lawyers were depicted as parasites dragging down Alabama's hopes to attract business to a state that had become "tort hell." The business interests won the 1996 election. The war continued in 1998 when the Republicans took several more seats at the cost of millions. The decisive battle was waged in the 2000 election cycle where five of nine high court seats were up for grabs, including that of the chief justice! It was at this point that I decided to enter the chief justice race, a race that would receive national attention because it was eventually won by Roy Moore, who is known as Alabama's Ten Commandments Judge.¹

Why did I decide to throw my hat into the ring? I had served at every level of the judiciary and was familiar with every type of case and administrative responsibility. I had the best record in the country of any intermediate appellate court judge in my case dispo-

1. Justice Moore is the chief justice of the Alabama Supreme Court. When he was a lower court judge, Moore affixed a wooden plaque bearing the Ten Commandments on his courthouse wall. This resulted in two lawsuits by the A.C.L.U., large amounts of media publicity, and Moore's subsequent election as chief justice. Bob Van Voris, *Prayer Cases Plus a Day Job*, NAT'L L.J., Dec. 25, 2000, at A17.

sition rate. I knew I had the qualifications. Further, no female had ever run for chief justice, and the Democrats were planning to nominate a woman. I was to learn that none of this mattered.

The election was almost two years away when I was informed in no uncertain terms by both the Business Council leadership and the Republican Party leadership that the nominee had already been selected and it was not me. In fact, nominees for all five positions had been hand-picked. No one else would have a chance because all of the money would go to these previously selected candidates. I was told that it did not matter what qualifications I might have; that experience and qualifications were irrelevant; that all that mattered was money; and that the money-men had already decided on a slate of candidates. The primary for my party was over more than a year before the election.

One might say, "Money isn't everything—the power of an idea matters too." Unfortunately that is not true. As in Texas and other states, outlandish amounts of money are pouring into judicial elections in Alabama. The formula is simple. Money = T.V. ads = name recognition = election victory. If the money had already been allocated in vast quantities, what hope was there for me? How could I run against a candidate with millions of dollars committed to his campaign before anyone even knew I was interested? I had two choices. I could forget the whole thing and let them have our highest court or I could go ahead with my candidacy knowing I had the chance of a snowball in an oven. I could not bring myself to give up. Democratic elections are vital and essential to my view of our justice system. These ideals just would not die an easy death. Maybe I would go down, but not without a fight. I knew if I lost I would still have two years remaining in my current term on the court of criminal appeals. In a sense, I had a free shot and a chance to fight back against the wholesale politicization of our courts. My challenge was to figure out a way to get my name recognition up by earning, as opposed to buying, media coverage. How could that be done?

My parents had lived in North Florida when I became a voter. In a hotly contested race for a Florida Senate seat, "Walking Lawton" Chiles had walked the entire length of Florida.² "Walking Wendell" Mitchell had been elected to the Alabama State Senate

2. Lawton Chiles was a Florida Senator for eighteen years before being elected Governor. He walked from the Florida Panhandle to the Keys to win his seat in the Senate. Richard Pearson, *Florida Gov. Lawton Chiles Dies*, WASH. POST, Dec. 13, 1998, at B6.

by walking 60 miles from Troy to Montgomery.³ Granny Dees was at that very moment walking from California to D.C.⁴ She was not a candidate, but was protesting peacefully the corruption of our democracy by special interest campaign contributions.⁵ I thought if this 90-year-old grandmother can traverse the continent, surely I can walk the length of Alabama. The questions became, Would anyone pay attention? Would I be bringing down the dignity of the Court? And could I make it physically?

To my knowledge, no female candidate had ever walked the length of a state to get votes. The unique venture would surely receive attention from the media, especially since the media was constantly harping on the money being poured into our judicial elections. The dignity of our court had been almost destroyed by the moneychangers. How could one lone voice in the wilderness of kudzu and mosquitoes be less dignified than the cacophony of judge-candidates begging the big boys for bucks? I felt my purpose was to restore dignity to our courts. As to my physical ability, I was in relatively good shape for a senior citizen fifty-something lady. Still, I realized I needed a strategy and a support team, including security and training. My husband Roger would provide all of these things.

My walk across Alabama was actually planned backwards. I wanted the walk to end about one week before the June 6th primary so as to maximize the media coverage. I decided Memorial Day, May 30, 2000 would be perfect! In the harbor on Mobile Bay at Battleship Park rests the USS Alabama. This entire park is dedicated to our military veterans. Within it stands a Vietnam memorial, a granite slab with the names of Alabamians who gave their lives in Vietnam. What better place to culminate my walk than in front of that monument on Memorial Day? Now that I knew my destination and my date, I simply backed it up and did the math. I could do ten miles per day walking and talking. If I walked six days per week, I would need to leave the Tennessee state line on March 27, 2000. Simple.

3. Wendell Mitchell walked from Dothan to Montgomery in 1972. Since then he has continued to walk from town to town within his district. Telephone Interview with "Walking" Wendell Mitchell Democrat, Alabama State Senate (Oct. 26, 2001).

4. In the year 2000, Doris Haddock ("Granny D") walked from California to the Capitol in order to lobby for campaign finance reform. She had two birthdays along the way: her eighty-ninth and her ninetieth. DORIS HADDOCK WITH DENIS MCBURKE, GRANNY D: WALKING ACROSS AMERICA IN MY NINETIETH YEAR (Villard Books 2001).

5. *Id.*

What route would I follow? It's amazing how many people thought I could just follow I-65, which runs the length of the state. For those who haven't noticed, pedestrians are not allowed on interstates. Before I-65, there was Alabama Highway 31. It covers the length, meandering back and forth beneath I-65, crossing rivers and streams, passing through towns such as Falkville, Georgiana, and Clanton and cities such as Decatur, Birmingham, and Montgomery. Rural and urban, industrial, metropolitan, recreational—you name it and it is there on Highway 31. I saw it all in my sweat-drenched, arm-sore, dog-bitten, eighteen-wheeler avoiding walk. Every day was a package waiting to be opened. Friends walked with me at times. Roger was always out in front of me, driving an RV covered with giant BASCHAB FOR CHIEF JUSTICE signs. He was supposed to be there to keep me hydrated, protect me from dog bites, and ensure that I wasn't blown away by log trucks. He did a good job except for one small incident involving spoiled Gatorade. Our marriage survived the ordeal, and we managed to actually enjoy the experience. If we hadn't bonded before in thirty-two years of marriage, we sure as heck bonded on this road trip! There are some challenges that even deodorant and mouthwash can't meet.

As to the political message, it was well-received. Whether I was walking into a truckstop, convenience store, high-school auditorium, Rotary Club meeting, garage, VFW, American Legion, yard sale, church picnic, grocery store, flea market, nursing home, or funeral parlor, I got the same response: "You are so right!" "The judges hadn't oughta take that money." "They've been bought now just like all them other politicians." "You just keep up the walk, you want a glass of ice tea?" "How 'bout resting just a spell and put yer feet up?" Farmers, store clerks, grass cutters, beauticians, mayors, shoe salesmen, crack addicts, lawyers, waitresses, reporters, and truck drivers all agreed with me: "It's wrong. It's bad." "And even if they ain't throwing their cases, even if they ain't bought, they look bought so how do they spect us to trust 'em, huh?" They would express the same sentiment: big money, you can't do nothing about it but God bless you for trying. I delivered my message to them, and in return they nourished both my soul and my soles.

These folks I met along my route were a tiny fraction of the voters. Was I able to increase my reach through media coverage? For the most part yes. I was interviewed in every town that had a newspaper, radio, or TV station.

Disc jockeys would interview me in the station live or else I'd call in and be interviewed on my cell phone. One of my best memories is of sipping coffee from a paper cup with a hound dog at my feet inside a little hut-like station beneath a towering antenna. These DJs are a dedicated, articulate group who know their listeners and were most gracious to the walking judge.

Newspaper reporters would come out to my route and stand in the rain or heat and some would even walk with me, dodging traffic, just to get a real feel for my story. Each and every reporter and editor was astute at grasping the threat to our judiciary. I sat in dozens of editors' offices and showed them the charts and figures on judicial campaign contributions. Big city dailies and small town weeklies all bemoaned the plight of our poor state, where the people's last resort, our courts, are becoming corrupted by Big Money. In a poor state like Alabama, where can an ordinary citizen get justice if the special interests have bought our courts? They photographed me in my bright orange hat, wearing my Baschab T-shirt, carrying my flags and sign, standing in front of newspaper offices, fountains, road signs, monuments, gardens—they put me on the front page and told my story along Highway 31 and points east, west, north, and south.

But in the final analysis, the newspapers that endorse candidates did not endorse me. Agreeing with me is not enough. Being qualified, experienced, and working yourself to the bone for a principle is not enough. I got a lot of coverage, but the endorsements followed the money trail, not Highway 31. Why? You know why. Like everything else, the newspaper business is just that: a business. Endorsements in certain races are not left to the reporters or even the editorial board but go to the highest bidder. I was disappointed that those same editors who had repeatedly decried the massive sell-out in judicial campaigns also sold out. When it came right down to it, they knew on which side their bread was buttered.

What did I learn? What did I accomplish? Well, I spent \$44,000 and came in third between a candidate who spent over a quarter of a million dollars and one who spent a million and a half! That's pretty good. More voters per dollar spent than in any other chief justice race, I venture to say.

I learned a lot about Alabamians. They are good-hearted folks who are fed up to the point of giving up on their government and elected officials. They feel disowned, abandoned, and disenfranchised. I was in Conecuh County in the southern part of the state in late May. A man was standing in his backyard with several

dogs who were all barking at me. He had to be surprised to see a woman with a sign plodding along the country-side through the high grass and honeysuckle. I walked over to him and told him my story and handed him a brochure. He glanced at it and handed it back to me.

"I don't vote" he said flatly.

"Why not?" I asked.

"I haven't voted in this corrupt system since Barry Goldwater lost. They are all crooks and you know it."

"What about all the people who have given their lives for their country?" I asked.

"They gave them for the wrong things. They shouldn't have done it and you shouldn't be doing this," he replied.

"Why not?" I asked again (keeping the answers I had formulated through seven weeks of walking to myself). "People like you, the do-gooders, the idealists, the boot-strappers, you are barely keeping alive a system that needs to die. Y'all come along and breathe a little air into a dead body—do me a favor, go home!"

Well! Echoes of the "go home" I had heard from the business and party leaders. Both ends of the spectrum—those totally given up and those totally using the system—were saying, "Go home, it's no use; you are missing the point." Cynicism gone rampant on either end.

I prefer the view of the fellow I met at the gas station a few days later. He was sitting behind the counter, reading the *Mobile Press Register*, and talking politics to his buddy sitting on a stack of drink cartons. They just snickered when I told them that as a chief justice who wasn't bought, I could make a difference. I challenged them when they said, "We've given up because we've seen one after the other like you. They say they'll make a difference but they just get in there and the same thing happens every time. They get on the dole and forget about the people." I bowed up a little since I had just told them I had already walked 350 miles; after all, it's our court system I'm fighting to save and they acted like "What's the use?"

I told them this.

"You can sit there and curse the darkness all you want to. I'm heading for the Vietnam memorial . . . We owe them more than that!" The fellow behind the counter put his paper down, reached into his pocket, and handed me a ten dollar bill. He said, "Ma'am, buy yourself supper with this. And please keep going. Give us something to believe in. My brother's name is on that memorial."

Enough said. My walk was worth every step. I gave myself something to believe in and perhaps, once in a while, touched someone in my walk and gave them something to believe in. I sure hope so.