

THE HISTORICAL SOCIETY OF
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IN THE EIGHTH CIRCUIT



Oral History Program

Hon. William Jay Riley

THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

An Interview Conducted by
Hon. Richard G. Kopf

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Interview with Judge William Jay Riley, U.S. Court of Appeals for the Eighth Circuit

Interviewer: Judge Richard G. Kopf, Senior U.S. District Judge for the District of Nebraska

Date of Interview: June 23, 2017

JUDGE KOPF: Well, good afternoon, Judge Riley. And thank you for doing this on behalf of the United States Court of Appeals for the Eighth Circuit. We're very appreciative that you're willing to take the time to give us a bit about your history.

JUDGE RILEY: Well, thank you. Thank you for the opportunity and the interest in even hearing anything from me, but...

JUDGE KOPF: We're very interested.

Today is June 23rd, I think, 2017, and we're in the chambers of the former Chief Judge, soon to be Senior Judge, and soon to be retired, as I understand it.

JUDGE RILEY: That's correct.

JUDGE KOPF: All right. Well, the first thing I would like to do is start with some basic details and try to get them out of the way. And I'm going to kind of do a cross of you. I just want "yes" or "no" answers. Okay?

It's true, is it not, that you were born in 1947 in Lincoln, Nebraska, and grew up there?

JUDGE RILEY: I did, yes.

JUDGE KOPF: You graduated from the University of Nebraska Phi Beta Kappa?

JUDGE RILEY: Yes.

JUDGE KOPF: In history?

JUDGE RILEY: No, in political science; history and English minors.

JUDGE KOPF: Oh, I'm sorry. You went to law school at the University of Nebraska where you were elected a member of The Order of the Coif and you were Editor-in-Chief of the Law Review. Is that true?

JUDGE RILEY: Yes, it is.

JUDGE KOPF: You then became a clerk for Eighth Circuit Judge Donald Lay.

JUDGE RILEY: Yes.

JUDGE KOPF: He encouraged you to become a trial lawyer.

JUDGE RILEY: He did.

JUDGE KOPF: And he recommended to the Fitzgerald firm, one of the preeminent litigation firms in Omaha, Nebraska, that they hire you.

JUDGE RILEY: Yes, he did.

JUDGE KOPF: And then they did.

JUDGE RILEY: That's right.

JUDGE KOPF: And one of your partners was our beloved

Senior District Judge Lyle Strom?

JUDGE RILEY: That's correct.

JUDGE KOPF: You became chief of the litigation group there?

JUDGE RILEY: Eventually, yes.

JUDGE KOPF: Various trial-related organizations have honored you as a trial lawyer. The National Board of Trial Advocacy certified you as a Civil Trial Specialist?

JUDGE RILEY: Yes.

JUDGE KOPF: The American College of Trial Lawyers made you a Fellow?

JUDGE RILEY: That's correct.

JUDGE KOPF: And you became State Committee Chair of the College?

JUDGE RILEY: Yes.

JUDGE KOPF: American Board of Trial Advocates made you a member and you served as the State Chapter President. Is that true?

JUDGE RILEY: That's true.

JUDGE KOPF: During this period of time and thereafter, you served as an Adjunct Professor at both the University of Nebraska-Lincoln and at the Creighton Law Schools?

JUDGE RILEY: That's right.

JUDGE KOPF: You taught Trial Advocacy?

JUDGE RILEY: I did.

JUDGE KOPF: All right. Well, let me see here.

Oh, you were active in the Nebraska Bar Association?

JUDGE RILEY: Yes.

JUDGE KOPF: You were very active in the Boy Scouts of America. Is that right?

JUDGE RILEY: That's true.

JUDGE KOPF: You were a Scoutmaster for a decade?

JUDGE RILEY: That's correct.

JUDGE KOPF: You were a member of the Board of Trustees of the Mid-America Council of the Boy Scouts?

JUDGE RILEY: That's right.

JUDGE KOPF: Let's see. What else can we find here? You became a United States Circuit Judge on August 3rd, 2001?

JUDGE RILEY: Correct. Sworn in August 16.

JUDGE KOPF: But your --

JUDGE RILEY: The Commission says August 3rd.

JUDGE KOPF: August 3rd. And you became Chief Judge in 2010 and served until, I think, March of 2017?

JUDGE RILEY: That's correct. April 1st I was the April Fool's Chief Judge.

JUDGE KOPF: So far as I know, you are the only Nebraska Circuit Judge ever to have been the subject of a Senate Concurrent Resolution in the State of Arkansas. I'm

going to read it and then I'm going to ask you whether it's accurate.

It says:

Commending Judge William Jay Riley of the Eighth Circuit Court of Appeals for his contribution to the legal profession.

Whereas, Judge Riley was appointed by President George W. Bush to the Eighth Circuit Court of Appeals and took his oath of office August 16, 2001; and

Whereas, Judge Riley is a graduate of the University of Nebraska-Lincoln and the Nebraska Law School;

Whereas, Judge Riley was the Editor-in-Chief of the Nebraska Law Review and clerked for the Honorable Donald P. Lay of the Eighth Circuit Court of Appeals;

Whereas, before his appointment to the Eighth Circuit Court of Appeals Judge Riley was a civil trial lawyer with Fitzgerald, Schorr, Bartmettler, and Brennan in Omaha, Nebraska;

Whereas, former Chief Justice of the Supreme Court William Rehnquist appointed and current Chief Justice John G. Roberts reappointed Judge Riley to serve on the United States Judicial Conference

Committee on Criminal Law;

Whereas, in 2001 Judge Riley was listed in the Best Lawyers in America and more recently listed as one of the leading 500 judges in America by Lawdragon;

Whereas, Judge Riley's countless accomplishments and honors throughout his legal career are representative of his high standing in the legal profession and his impact on the practice of the law;

Now therefore,

Be it resolved by the Senate of the Eighty-Seventh General Assembly, the House of Representatives concurring therein,

That the General Assembly commends Judge William Jay Riley for his outstanding achievements and his contributions to the legal profession.
Have I accurately read that, Judge?

JUDGE RILEY: To the best of my recollection. And how in the world did you ever find that?

JUDGE KOPF: And that was in 2009, Judge.

I want to turn to something that judges never read, or they say they never read. It's called the Almanac of the Federal Judiciary. They ask lawyers about judges. And here's part, at least, of the lawyers' evaluation of you in the most

recent edition.

"Lawyers interviewed said Riley is a bright [and] capable judge." "He is intelligent, prepared, and a fair judge. He is a very smart guy." "He was very, very thorough. I could tell he read every case we cited. It was impressive how he retained the case law." "He is very much in control and very [much] in charge." "In my opinion, he is one of the best on the bench." "He is a very able judge." "I don't think there is any question about his intellectual ability." "I'd describe him as fair, and honest. I think he's very capable."

The Almanac goes on to say the lawyers said about you that you were "even-tempered and polite"; that you do ask your share of questions about the case; that you're "very pleasant"; that your courtroom demeanor is good; you're very "cordial and professional and polite." He's "the perfect judge." "He is a gentleman, an experienced [trial] judge and before that an A list civil litigator. He is civil and cordial in how he treats [lawyers]." He's "very respectful and polite." "He is very pleasant and very courteous."

So that's what the lawyers think of you. Do you think that's accurate?

JUDGE RILEY: It's just the way I wrote it. No.

JUDGE KOPF: All right. Now, I want to go back to your childhood now that we've got some of your accomplishments out of the way, and we'll go back to some of those in a moment.

Tell me about your childhood.

JUDGE RILEY: Well, I was an only child, which my wife Norma says that explains a lot of my problems. And I was raised in Lincoln in a great time to be raised in Lincoln. And I enjoyed music. I enjoyed sports.

What a lot of people don't know is that -- well, back up a minute. My mother was a concert pianist and had -- she was somewhat of a savant as a young person. And I was such a disappointment to her because I was not. And she tried to teach me piano but I couldn't accomplish anything like she had, so... She said I could not give up music. So I had to find another instrument. And so I took up the trumpet. And I did. And I played the trumpet in junior high and then in high school, in the orchestra, was lead -- first chair, and so forth. I was in youth symphony, in a dance band. I loved it. And that was my music side.

And then in sports, I played football and basketball and baseball, but I burned out on baseball, although it was probably my best sport.

Somewhere there I found time to study and do things in school. And I was not early on a quick reader. They pulled kids out of my class and said that they're going to have a special reading class for these smart kids, and I was not one of them. And I took that as a challenge. And I said, well, you know, I'll show them, that I'll end up being a better

reader than they are. That was back in elementary school.

So I'd say my young life was very happy and enjoyable to me, but I learned to be very competitive. And I didn't know then that, you know, that's good if you want to be a trial lawyer and it's good for life, but I really -- anytime that my father would tell me something, "You can't do that," and he knew that if he said that, that I was going to try to prove him wrong.

And so I'd say that school and sports and music were really what guided my life for those -- through high school anyway.

JUDGE KOPF: You took some of those attributes and mentored first-time offenders; isn't that right?

JUDGE RILEY: I did. I was in -- one of the most enjoyable things I did was in a Boy Scout -- it was a Boy Scout-organized juvenile diversion program. And they worked with the juvenile courts in Omaha. And they would take first-time offenders. And I would have a group of, I don't remember, maybe 12 or 15 kids, from about 13 to 17, and would work with them. We would meet on Wednesday night and had various programs the Scouts would organize with speakers or events and we'd go somewhere. And one of the last ones was to go to the Nebraska penitentiary over here by the airport and do a scared-straight deal. And I did that.

And the only -- I remember so much about those kids. I

remember there were -- I had girls 13 years old who were pregnant. And I had boys that were, you know, just on the verge of going the wrong direction. And I had one man -- well, young boy, who was 15 or 16, from North Omaha, who had been accepted to Creighton Prep, and then he'd gotten into trouble. And Prep said, "If you get convicted of this, you will not come to Prep." And so he had to get through it. And he was going to Prep really because he was a basketball player.

So I had told him at the beginning that if he passed the diversion program, I was going to take him out on the church yard there and I was going to whoop him in basketball. And at the end -- I thought maybe he'd forgotten it. But in the end, he passed, and he got his degree -- or his graduation and he brought his basketball that last night and he said, "Come on, let's go." And we went out on the parking lot and he cleaned my clock playing basketball.

But anyway, those were quite enjoyable -- And it was just like the Boy Scouts. Working with young men there was -- and I've said, those ten years -- as you said, a decade as Scoutmaster -- were the most enjoyable years of my life, working with those young boys.

JUDGE KOPF: Your partner and our beloved Senior Judge Lyle Strom was heavily involved in the Boy Scouts as well.

JUDGE RILEY: Um-hum.

JUDGE KOPF: Did you ever go on any hiking trips with him?

JUDGE RILEY: We went on a leadership --

JUDGE KOPF: Ah.

JUDGE RILEY: -- time -- one time. He probably will deny this, but I was in scouting before he was and I'm the one that said, you know, this is great, you know, you ought to get into it. And, of course, he got in with both feet and went on for many, many years.

But we were out in a leadership camp out at Camp Eagle near Fremont and we were there for a couple of nights. And they were all getting ready to go to bed the first night. And, well, I'd done a lot of backpacking and hiking and climbing the mountains, that kind of thing. He had not. He was pretty citified, city-fied. He was a real city boy. And he said, "Well, where are you going to sleep?" I said, "I'm going to sleep outside." And he said, "Well, did you bring a tent?" And I said, "No, I'm going to sleep under the stars." He said, "You're gonna what?" So I said, "Come on, bring your sleeping bag." And so we went out and slept under the stars. And that really got him hooked, as far as camping out and camping under the stars.

And we just -- we had a great relationship, both in the law, but also in Boy Scouting.

JUDGE KOPF: I'm going to turn a little bit to your

family, your lovely wife and good friend of mine, Norma, and your children. Tell us about -- first of all, tell me about how you met Norma. I've known Norma as long as I've known you, which has been since 1969, I think.

JUDGE RILEY: Um-hum.

JUDGE KOPF: But tell us how you met Norma.

JUDGE RILEY: We were high school sweethearts, but not in the same high school. I was at Lincoln High and she was at Lincoln Northeast. I had gone to a party where, apparently, I had been a little bit of a show-off. And when -- it was some time later, was sitting at what was then called the Kellogg Center --

JUDGE KOPF: Um-hum.

JUDGE RILEY: -- there at 33rd and -- what was that, 33rd and Holdrege -- is that right? I think -- in Lincoln. And it was the Governor's Youth Conference and we were both there. And I was sitting there. I didn't have a ride home. And I was waiting for a ride when all of a sudden this really cute young girl came up to me.

JUDGE KOPF: Indeed.

JUDGE RILEY: Yeah. And she said, "Hello," you know, "I'm Norma Mason." And I looked at her. And then she got very embarrassed. Because her personality was not to walk up to somebody. And she said, "You don't remember me." And I said, "No, I don't." So she got very embarrassed. She walked away

and sat down the other side of the room. And I thought, hmm, she's very cute, maybe I'm making a mistake here. So I got up and I walked over to her and I started talking to her. And we started dating. And we kind of had one time that we did not -- we kind of drifted apart. And then we had a friend -- I don't know if you know Dick Reiser, but Mary Lynn Reiser was from Lincoln Southeast. Now, you have a Northeast, Lincoln High, and Southeast.

JUDGE KOPF: I know both of the Reisers, yes.

JUDGE RILEY: Wonderful people. And we were at what was a Keen Time dance when all the high schools would get together and dance in Lincoln, which I don't think they do anymore. And she saw me one side of this crowded room and Norma was on the other and she dragged me across and of course she couldn't hear me protest because of all the loud music and, you know, the cheering and so forth. Got to the other side and she said, "Well, here's Norma." And so Norma and I then started dancing and been dancing ever since.

JUDGE KOPF: When were you married?

JUDGE RILEY: Married in December 1965 in our freshman year, undergrad. We've been married now over 50 years.

JUDGE KOPF: My goodness.

Tell me about your children.

JUDGE RILEY: Well, we have three. Brian is the

oldest. And he has some real health issues. And he's on dialysis. He had -- quite a few years ago now, hate to guess, but it's been a decade or more, probably a couple decades -- kidney failure and so he's had a kidney transplant and that has run its course and he's back on dialysis. But he's worked primarily for insurance companies or securities companies doing accounting. He's kind of -- very good with numbers and that kind of thing.

And then Kevin is the next. And Kevin is also very good with numbers. And he works for Google. As we call, he's a "Googler." And Google is a wonderful place to work and he keeps telling me, I'd love to tell you about it, but if I do, you know, I'd have to kill you. Because if we think our security at the courthouse is good, the security at Google is far, far superior. But he works with computers, originally with the hardware, now he's more in supervisory capacities.

My daughter, Erin, she's the youngest. And she is a physician's assistant. She worked at -- well, she was on -- a pediatric PA in Lincoln for a while. Then she taught at the University of Nebraska Medical Center. And then she taught at Children's. And she's just now leaving Children's Hospital to go to work -- Creighton is setting up a new PA program and she will be teaching at Creighton --

JUDGE KOPF: Oh, my goodness.

JUDGE RILEY: -- medical school, so...

They're all outstanding people and I'm very proud of each and every one of them. In their field, they're exceptional.

JUDGE KOPF: I can attest to that. They're really nice people.

JUDGE RILEY: Thank you.

JUDGE KOPF: Do you have any grandchildren?

JUDGE RILEY: I have -- well, I have three step-grandchildren and six direct grandchildren. And I know at one point you're going to ask what I'm going to do and one of the things I'm going to be doing when I retire is spend more time with them. And they go from -- well, my step-grandchildren are probably, like, 26, 27, 25, so forth, down to Erin's daughter, who just turned four. And so we're -- we're going to spend more time, mainly with the young ones, so...

JUDGE KOPF: You spend quite a bit of time with your family in Colorado, don't you?

JUDGE RILEY: I do, yes.

JUDGE KOPF: Tell us a little bit about that.

JUDGE RILEY: Well, we love Colorado. We love the mountains. Obviously, Norma and I've been going out there for a long time. We used to go backpacking and climbing and hiking, so forth.

We eventually got a cabin in northern Colorado in the middle of nowhere. And we -- and I built it -- designed it,

kind of built it myself. And we ended up selling that. And then -- we now have a very nice place that somebody else built and it's much better, sturdier, and that's in Estes Park, Colorado, in kind of the heart of it up on the mountain ridge. And we'll spend a lot of time there. Call it a cabin, but it's a four-, arguably five-bedroom home. But we love it.

JUDGE KOPF: I want next to turn to your practice experience. Tell us a little bit about -- well, you practiced law for 28 years, I think, with what I call the Fitzgerald firm.

JUDGE RILEY: Um-hum.

JUDGE KOPF: Just tell -- well, I know you tried a manure -- patent manure case and you won it. And I think at the time of your investiture I said that you were the only circuit judge I'd ever known to turn manure into gold. But that aside, tell us about your practice.

JUDGE RILEY: Well, I think you might be interested -- I think -- one of the culprits of this story is now deceased, but I'll tell you how matters have changed with judges and their law clerks.

When I was clerking for Judge Lay, I knew at that point there were two things I never wanted to be. I never wanted to be a tax lawyer and I never wanted to be a trial lawyer. And you can't be around Judge Lay very long before you're infected with his enthusiasm for the courtroom and for the trial

lawyers. And he firmly believed that you are not a lawyer unless you're a trial lawyer.

So somewhere during the year, he decided that I needed to be a trial lawyer and that the best that I could do would be to go to the Fitzgerald firm because -- there were two reasons. One was what he thought was one of the best, if not the best, trial lawyers in the region was Lyle Strom. And that Jim Brown worked there. And Jim Brown, in Judge Lay's view, was the closest to a legal genius he had ever known. And he said the best thing you could do is work for them and learn from them.

So he sat at a desk where I was in front of him and he had his telephone behind him, turns around, picks up his phone and he calls and he says, "Lyle Strom. Lyle, I've got a young man over here to interview for a job for you and I think you should hire him." And he -- "What would work for you for a time for him to come over?" And I know Lyle said, "Well, we've already hired. We don't have any openings." And Lyle later said, "But what do you say when a circuit judge calls you and says you need to hire his law clerk?" But Judge Lay didn't take that, you know, for an answer. He said, "Well, you have time and this is an outstanding young man," so Lyle says, "Okay."

So I don't know, a few days later, I went over and I interviewed with them and went through the whole process. And -- in an afternoon.

So when I came back to work the next morning, Judge Lay

said, "Did they offer you a job?" And I said, "Well, yes, they did." "Did you take it?" And I said, "Yes, I did." "Well, what are they going to pay you?" And I told him. And he didn't say anything. Turned around, picked up that phone and he called, "Give me Lyle Strom. Lyle, that amount of money is not enough." He said, "We here at the federal government pay more than that. You need to pay him at least," whatever the amount was, and they did.

And -- which is probably -- leads to some of the rules we have now in judicial conduct that we don't do that anymore, but that's how I got the job.

And I worked with Lyle Strom a lot, which was a great learning experience.

And I would be neglectful if I didn't mention Bill Brennan. Bill Brennan I worked with more than probably Lyle Strom because Lyle Strom was gone a lot doing depositions and trials and so forth.

But I started off doing insurance defense work, odds and ends. And then as you start getting a reputation and trying -- they start getting bigger cases. And of course started off in what was then muni court. Went to state district court and then federal court, so forth.

One of the benefits I had early on was that a big client of ours, American Beef Packers, filed bankruptcy, Chapter 11. And when you do that, then all of their customers they sell to

won't pay. They figure, well, you know, we got free beef and so on. So my job, and I was the only one, I had to go -- they were a Fortune 500, like 250 biggest corporations in the country. And my job was to sue all of these companies and to get them to pay.

My decision first was I'm going to bring them to Omaha. Well, if you probably remember, personal jurisdiction wasn't real solidified at that time. And so I decided to sue the first one in federal court because federal court was more liberal and broad-minded on personal jurisdiction. And I got old Judge Denney to write an opinion giving me jurisdiction over the -- well, one of them, that I used as a precedent to get them. And then I went back to state court and started suing them in state court. And most of them did not remove; it stayed in state court.

So then I tried a whole series of jury trials to collect them because they thought the juries -- when American Beef went in, people were furious at them because they let all kinds of checks bounce and farmers -- we actually had farmers and ranchers in our lobby of our law office with shotguns, threatening our lawyers. And we had designated lawyers. Joe Bartmettler would go out and talk them down. I mean, it was -- it was a very contentious time.

And so we would -- they wanted to be in state court to have the local jurors. And, example, the very first one, I

went in and we were picking the jury and it was in front of Judge John Burke --

JUDGE KOPF: Um-hum.

JUDGE RILEY: -- one of the great state trial court judges. And there was -- I was the plaintiff and I was asking had anybody heard of American Beef Packers and, you know, all the hands went up. And I said, "Well, is there anybody that that would influence their decision?" And all the hands went up. So I was going down and just talking to them. And one of them -- one man said -- very gruff man and he said -- he said, "Now, that's a company that Frank West had." I said "Yes, it is." He said, well, that lying SOB, he's a crook and he's a -- and he went on and called him every name, every civil name and every uncivil name, that he could think of and, you know, tainted the jury. And I -- I asked in my classes when I taught, you know, what do you do with that? You've just had your client called everything under the sun.

JUDGE KOPF: In front of the entire panel.

JUDGE RILEY: In front of the entire panel. And my students would say, well, you ask for a mistrial. And I say, well, sure. The judge would have granted me a mistrial. But I didn't. They said, well, what'd you do? Would you agree with him? I go, well, no, I wouldn't agree with him. But what I did was, I said, now, Mr. Jones, you understand that I'm here representing American Beef Packers, debtor-in-possession, and

it's my job to recover moneys from the people we sold product to so that we can pay those farmers and ranchers back some of their money and that's why I'm here. Well, of course, "Objection, objection." And the judge said, "Well, I think under the circumstances I'll let Mr. Riley explain why we're here." And you could just see them turn 180 degrees. And that came up in every case, not quite as brusquely as that guy did. And we won every single one. Got unanimous jury verdicts. And, you know, we're talking about -- you've got StarKist and General Foods and General Mills and a lot of -- you know, a lot of big companies.

And after a series of those, they finally gave up and started paying us. But it took quite a few jury trials to show they couldn't win to the juries in Omaha.

JUDGE KOPF: You mentioned, and I've mentioned, Judge Strom and you've also mentioned Judge Lay. And I want to talk to you a little bit about -- a little more about how you got the job with Judge Lay. How did that work out?

JUDGE RILEY: Well, you know just as well as I do.

JUDGE KOPF: I -- that's why I'm asking you the story.

JUDGE RILEY: Well, a young -- young, outstanding student at Nebraska named Rich Kopf and I, along with several other very outstanding students, interviewed these two federal judges at the Nebraska Law School. I think there were five or

six of us. And I know that both of us were asked to do it. And I know -- I know, as far as I -- my knowledge was, and I think yours was the same, was, well, what's this law clerk thing? We had no idea what it was all about and didn't know anything about the judges or anything.

Well, after the interviews they decided that they wanted Rich Kopf and Bill Riley. And they announced that they didn't care which judge got the other. One is Judge -- Circuit Judge Don Ross and Circuit Judge Don Lay. And they wanted us to come to Omaha to interview. And we drove -- I can't remember if it was on the drive up or the drive back --

JUDGE KOPF: It was the drive up, Bill.

JUDGE RILEY: Was it the drive up? The question was, well, which judge would one of us clerk with?

Well, at that point I had a job offer to go to Kansas City and work at -- it was then called Stinson, Mag & Fizzell in Kansas City. And this other outstanding student did not have a job offer. And so the difference was, Judge Lay had a one-year clerkship and Judge Ross had a two-year clerkship. And since we didn't know either one of them, my suggestion was, well, I've got a job, you don't, and so why don't I take the one-year clerkship, you take the two-year clerkship and that way it gives you another year to help get a job. And so that was the logical, but not necessarily academic, reason about I ended up working for Judge Lay and you ended up working for Judge

Ross.

JUDGE KOPF: And then you told Stinson, Mag, no, I'm not coming.

JUDGE RILEY: That's right. Yeah, a year later I ended up with -- they offered me a job again and I ended up going -- working for Fitzgerald for...

JUDGE KOPF: So long time in the practice of law, highly regarded, making obscene sums of money --

JUDGE RILEY: I wish.

JUDGE KOPF: -- and a certain senator interviews you for a job. Tell us about that.

JUDGE RILEY: Well, let me back up just a minute. When the position opened up, it was in the district court.

JUDGE KOPF: Correct.

JUDGE RILEY: And I thought, you know, I'd like to be a district judge. I tried cases in front of Judge Kopf and I figured, gosh, I could do that well. And so I thought, well, you know, maybe I could do this job.

So when the position opened up, I talked to Norma about it. And I said I don't know, I don't know anything about it. And I was not involved in politics at all. I was a Republican, but that just meant I went wherever it was and voted, so nothing really else.

So it was my wife, Norma, that talked me into it. And she'd said -- she said, "Well, you'll never know unless you

apply." So I applied to be a district judge.

And I interviewed -- I remember I followed the interview with Stu Dornan. And so I don't think they'd made the decision about the circuit yet. I think I was still on the list of the district court nominees. And I met with Senator Chuck Hagel -- and later the Secretary of Defense Chuck Hagel -- at his office in Omaha. As I said, Stu Dornan walked out and we greeted each other and then I went in.

I was quite impressed with Senator Hagel because he was very bright; all business. I mean, there was no joking around or chitchat. And he -- I remember at one point somebody came in and asked him a question and said, you know, "You need to come out a minute." So he goes and leaves. He had just asked me a question. And I can't remember the question but I remember it was a hard one. He came back in and I thought, well, this is good, he will have forgotten the question and I won't have to answer it. He came in, sat down, and said, okay, now, what's your answer to that hard question? And I was impressed that he remembered. He had no notes. But I interviewed with him.

And then somewhere along the line the White House counsel people decided that -- There was an opening; Judge Beam, Judge Arlen Beam, had also taken senior status. And I got a call from Washington, DC, saying -- or I guess it was Senator Hagel's office saying we're going to send a list of names to

the White House. And in the conversation, I didn't hear at first. I said, well, wait a minute, what list did you say? And he said, well, it's a list to the Court of Appeals. And I said, "Wait a minute. I didn't apply for that. I clerked at the Court of Appeals" -- these were my exact words: "I clerked for the Court of Appeals, I know what it's like to work at the Court of Appeals, and I do not want to work at the Court of Appeals."

Well, that kind of stunned them. So they said, well, let us get back to you. And then I said, well, if -- you know, when I don't get the Court of Appeals job, can I still be considered for the district court? And they said, well, we'll get back to you. So when they got back, they said yes, we'll still consider you for the district court.

So they sent -- and I was one of five names. It was the Speaker of the Legislature -- I can't remember his first name -- Doug Kristensen?

JUDGE KOPF: Chancellor at Kearney now.

JUDGE RILEY: Okay. Outstanding trial lawyer in Lincoln, Fred Kauffman; the Attorney General from Nebraska, Don Stenberg; and then this outstanding chief judge of the District Court of Nebraska, who I thought ought to have the job, and that was you, Rich Kopf. And so I figured, you know, what are my chances here? You know, probably around zero.

And so they went on. And kind of to finish the story is

sometime after that I was starting a jury trial in Omaha, a very serious case where a young boy was in the front of a car and he was riding with his grandma and it had -- it was not -- car ran a stop sign and it hit her and air bags went off and it broke his neck and he was quadriplegic. And I'm representing the car company. I'm pretty sure it was Chrysler.

And anyway, it was going to be a multi-week trial. It was starting on Monday and this was a Thursday and I get a call from the White House Counsel's Office and said, "This is Courtney Greenwood with the White House Counsel's Office and we'd like you to come to Washington, DC, and interview you." And I said, "Sure." And she said, "No, no, I really am with the White House Counsel." And I said, "Yeah." I knew this was a joke. I knew that one of my humorous friends, partners or whatever, had set this up.

And I said, well, I'll tell you what, Courtney, give me your phone number, I'll call you back because I have this trial started and I would have to talk to the judge and the other lawyers. She said, well, okay. It's 202 -- and I thought, oh, no, maybe this is real. So I said -- my next comment was, "I'll get right back to you, Ms. Greenwood."

And so I did. I called the judge and the lawyers and they said, well, we'd like to get started with the case and probably next -- by Thursday or Friday will be okay.

So I called her back and I said, "Ms. Greenwood, I could

come on Thursday or Friday." "Well, we need you right away so would you come Thursday?" I said, "Okay." And then I said, "Wait a minute, I can't come Thursday because I teach at Creighton Law School Thursday night." And I know this poor woman was thinking, Does this rube from Nebraska really want this job?

So she said, "Okay, Friday. You come Friday. 1:30." And I said, "Fine. Are you going to send me a letter?" And emails were just coming in at the time, and so were cell phones. But I said, "Would you send me a letter or fax telling me -- giving me directions?" And she said, "Well, do you think you really need it?" I said, "Well, yes. I don't know where to go." And she said, "It's the White House. We're on 1600 Pennsylvania Avenue." I said, "Oh, that White House."

So I did, and I went and I interviewed with them.

And while you're here, I want -- I probably have said this before, but when I had my White House interview with the number two guy at the White House Counsel's Office, Tim Flanigan, and Courtney Greenwood, we were in that conversation, they were asking lead questions, so it's kind of like a bar exam, you know, just general questions, legal questions.

And when -- I don't remember how it came up, but it came out, well, what do you think about the other people? I said, you know, I don't know why you're interviewing me because the best person for this job is Chief Judge Rich Kopf. And they

weren't giving out information, they just asked questions. They said, "Why?" And I said, well, he's more experienced, he's very scholarly, he's a good writer, and I went through all kinds of your wonderful accomplishments and attributes. And they just sat there and listened. And they asked me about the other people and I said I don't know them, except Fred Kauffman, I know he's an outstanding trial lawyer.

And what had happened in the meantime was a sixth person had come in. That was Professor Ralph Whitten from Creighton.

JUDGE KOPF: Oh.

JUDGE RILEY: Because he was originally -- grew up in Texas. And his family knew the Bush family. And as far as I know, the only ones that got interviewed for this job were me and Ralph.

And getting back to where we started this conversation with the senator, Senator Hagel said, "Well, after you meet with those people, I want to talk to you immediately afterwards." So afterwards, I came out and, of course, you know, you're kind of floating having been at the White House.

JUDGE KOPF: Yeah.

JUDGE RILEY: And I thought, well, I'll just walk up to the Senate. And it was a hot day. And, you know, I floated for about three blocks. And as you well know, it's about a mile.

JUDGE KOPF: Right.

JUDGE RILEY: So the rest of it I was -- got exhausted. And I got up there. And I went in and they called me immediately in. And then we sat down -- it's a beautiful room -- by a fireplace. Of course, the fireplace wasn't on. And just he and I were chatting. He says, "I want to know everything that was asked of you and what was said."

Now, Senator Hagel and President Bush were not best of friends and they became even less friendly after that. But his comment that I remember was, he said, "Well, I met last night with this Professor Whitten." And he said, "The way I look at this, is that this is Nebraska versus Texas." And he said, "Nebraska is not going to win this -- or "Texas is not going to win this one." And so I figured I had somebody on my side when it went through.

But -- and it was -- the other neat thing I remember about that was somebody came in and said, "Senator Hagel, you have a meeting down at -- someplace, and starts in a couple of minutes. He said, "Yeah, yeah, yeah." So we went on. And we talked for a couple of minutes. And then we talked for another five minutes and then another ten minutes. And I said, "Senator, don't you have a meeting?" He said, "Yeah, don't worry about it." Well, he didn't have a meeting. That was his way to get out of talking with me, was to have somebody come in and say, "You have a meeting." But he wanted to know everything that had happened up in this White House interview.

And for him, this was the first time he was involved in a judicial nomination. And so he was learning from it and he was very -- very interested in the process.

JUDGE KOPF: And the rest, as they say, is history. You were unanimously confirmed in the Senate.

JUDGE RILEY: I was.

JUDGE KOPF: And there's a story, I think, about you driving in Iowa with your wife and cell phones and your confirmation. Tell us about that.

JUDGE RILEY: Well, before the Senate confirmation, before -- after they had decided that I was going to be their nominee, but I didn't know that at the moment, I got a call from Courtney Greenwood, Ms. Greenwood, and I said -- she told me, the President's going to call you this weekend and we're going to -- he's going to nominate you, but he wants to talk to you. She says, we need to know where we can reach you. And I said, well, we've got a wedding, friends of ours, in Minneapolis, then we're going up to another friend's cabin in northern Minnesota.

So I got the phone numbers of -- cell phone numbers of everybody, including the friends that were riding in the car with us and so on, so forth. And didn't happen Friday, didn't happen Saturday, didn't happen Sunday. And we were up at friends' -- I don't know if you know Chuck Kluver, is a lawyer in Omaha. He and his wife, Mary, have a cabin up there. And

he really wanted the President to call his cabin. And we hung around Monday as late as we could and still get back.

So we finally -- I said, "We've got to go." So we got in the car with our friends Gordon and Claudianna Todd and the women were in the back and the men were in front driving. Well, there's no -- I don't know if there is now, but there was no cell phone connection, much -- we were cutting catty-corner across Minnesota. And we finally came to a town called Sauk Centre, Minnesota. And it's pouring rain. I mean buckets. And all of a sudden, Gordon Todd's cell phone rings. And he gets on. Well, it's my secretary, Kris Schneiss. And she said, "Is Bill there?" He said, "Yeah, he's right here." She said, "Do you know the President of the United States has been trying to reach you for over two hours?" And I said, "Well, no, we've been" -- you know, I tried to explain it to her, we hadn't been anywhere to get a cell phone.

So she said, "Well, call this number." And so I called that number. And it was the President's personal secretary. And I can't remember now what her name was, but I said, "Mary, I want to explain," you know, and then I -- and she said, "Well, the President's waiting for you" and she cut me off like that and put the President on; and President, of course, George W. Bush.

And the thing that I -- we didn't talk long, but his comment was -- main interests we talked about was Boy Scouts

because he, you know, thought very highly of the Boy Scouts and he wanted to talk to me about my Boy Scout experience.

But we're in this car, pouring down rain. And when -- we're waiting for him to get on the line and I said, "Hello, Mr. President," and everybody in the car just went, "Ohhh-ahhh," and -- the whole car fogged up.

And so I'm talking to him. When we get done -- and he was very cordial. And I said, "Well, it's a real honor." And he said, "Well, I don't know how much of an honor it is, but it's nice to talk to you." One thing I noticed was, when a casual conversation, it was a very Texas drawl. I mean, he talked like he was, you know, down here, "How you doing there?" you know, rather than what you hear publicly.

And when we hung up, Claudianna Todd in the back says, "Well, we've got to take a picture here, where we are." And I said, "It's raining out." She said, "I don't care, we're going to get our cameras."

So we went into this -- we had pulled over and we were in the driveway of -- I think it was Mel's Body Shop; one-stall body shop. So we went in. And we walked in and here a guy's sitting at the counter and it says "Mel" and -- right on his shirt.

Well, Claudianna runs up and she says, "Would you come outside and take a picture of us?" And he said, "Lady, it's raining. It's pouring out." And she said, well, you know, he

just got -- just talked to the President. And the guy looked at us and -- "The president of what?" And she said, "President of the United States." So Mel gets out behind the counter, comes around, goes out in the rain and takes a couple of pictures of us in front of his body shop. And I know -- I have no idea where those pictures are, but that was the conversation I had with the President, on a cell phone. So it was kind of a rough moment.

JUDGE KOPF: So in 2001 you become a circuit judge. Tell us about the first couple of years.

JUDGE RILEY: Well, you've probably heard this or we've talked about it, but the first couple of years were miserable. And I know you went through this some probably becoming a magistrate and then again as a district judge. But when I came from private practice, I thought I had a fairly broad practice, but I got into being a judge and found out that probably 95 percent of what I was doing as a judge I had never touched on, maybe in law school some of it, but not what we were doing. 2255, 2254, I had never even heard of. Strickland v. Washington. I didn't deal with those kind of things. So it was a huge learning curve.

And my wonderful secretary, Kris Schneiss, and I, and our law clerks to some degree, but she and I worked 7 to 7 seven days a week. I mean, maybe she didn't do the weekends quite that much, but -- then I'd take work home. And that was that

way for a year and a half to two years. Huge learning curve.

And as I know you know, Judge George Fagg, what a hard-working man he is and he had a practice of being in the office, like, 4:30 or 5 in the morning.

JUDGE KOPF: Right.

JUDGE RILEY: And the first day I came in to work, I had what we call administrative panel matters where there would be panels that have to make decisions on things. I came in that first day and here was an email from him already telling me what he thinks. And every morning, even though I got in at 7 a.m., he was already -- sent me emails telling me what he thought ought to be decided. And he and I were on a panel for those first few months.

So I don't know when it was, about three months into it probably, and one of the judges, Judge Kermit Bye from Fargo, North Dakota, had been a trial lawyer and a lobbyist, and I knew he had come from a somewhat similar background so I called him up and I said, "Kermit, I am just absolutely overwhelmed here. Does this ever get easier?" And we talked about it. And he essentially said, he said, "Give it two years." He said, "It'll come together within two years." And he was right. You know, it started coming together and you start seeing the same things over and over again. Then you start looking for something new and different.

But it was very difficult the first couple of years. And

for Kris too. And we were -- the district court was kind enough to let us use chambers in the other corner of this floor, but it was not built for a circuit judge and it doesn't have storage. And we were -- back then, you know, nothing was electronic and we just -- boxes and boxes of stuff coming in we had piled all over the chambers, you know, for briefs and records and all kinds of material that we had.

So we were buried in paper and overwhelmed for those first two years, but it finally came together.

JUDGE KOPF: Just for the purposes of our record, we're in Omaha, Nebraska, at the Roman L. Hruska Courthouse. And your chambers are on the -- it's a six-story building but two of those stories are below ground, so you're on the fourth floor. And you've been chambered here since your appointment?

JUDGE RILEY: Yes.

JUDGE KOPF: Okay. Let's turn now to how you use your law clerks. I'm interested in knowing what your practices are more generally and whatever else you'd like to add.

JUDGE RILEY: First of all, as you well know and I think almost any judge knows, your law clerks become like family. You become very close to them; some more than others, but generally speaking, all of them.

In the first few years -- one of the reasons I worked so hard was I tried to do everything that they were doing. It was very duplicative. And once I got more confidence in the law

and the procedures and I could rely on them more, I didn't have to go back and look at everything they looked at. And so, if you have a big case and a record -- or any record, for any case, I didn't -- I got to the point I wasn't going to read that record. They would highlight it. They would point out to me what are the key parts, the key testimony or the key discussions with the Court or whatever in a ruling of evidence or whatever, or in agency files. And I became confident enough that I could rely on that.

So my law clerks were the ones that would read the record. And they would read it -- it depended on the issue. If it was an issue of sufficiency of the evidence, they're going to read everything. But if it's an issue on a narrow thing like, you know, did Judge Kopf make a right evidentiary ruling on a certain thing, well, you know, it's pretty limited what you need to look at.

But they -- I soon had them reviewing all the record. And then I got to the point where I went from reading all the cases to more relying on them to read the cases that were cited or they found that -- and have them highlight them and then I would read the cases where they would highlight. Now, that might cause me to go back and read the whole case and look at that, but...

And then they would draft up opinions. And that -- To back up. When the year begins -- my law clerks I would have

for either one year or two years. And I had a few for longer than that. And I had a career law clerk, an outstanding lawyer, Jeff Mindrup. I think he was here about five or six years. But generally speaking, they would be here for two years or one year. And they would -- I'd start off and I'd sit at this same table and we'd have a conference at the beginning on -- I had a checklist of what your job is and everything from duty of confidentiality and loyalty and so forth to what -- about reviewing the record and looking up cases and so forth.

And one of the things I wanted them to know -- and, of course, I've had a lot of law clerks with differing political views, philosophical views, legal views. And I told them, you know, you have to put this aside because, I said, "I do not have an agenda. I'm not here to change the law in any respect. I'm here to try to figure out what's the right answer and that's what you're here to do, is to help me figure out the right answer, by reviewing the law, reviewing the record."

And, you know, once in a while I'd have some that really wanted to push -- push me and the law a certain direction and you'd have to say no, no, we have precedent here or I don't think the Supreme Court would go there. And you -- but let them know what their job is and then turn them loose.

And I always overlapped them, so I always had at least one law clerk here that had worked for a year or two and would then be able to also help train them. And a lot of the training the

law clerks got I think was interaction among themselves.

A big benefit, you know, in the district court you have two, maybe three if you have a special -- but we have four. And what they learn among themselves -- and I know when you clerked and when I clerked, working with our co-clerks was awfully beneficial --

JUDGE KOPF: Right.

JUDGE RILEY: -- bouncing things off of.

So I used them that way. They would draft opinions.

And because we are a publishing precedent court, we go through a very elaborate process of trying to make those opinions accurate. They will draft it. And then they will circulate it among the other law clerks and get their views. And they will critique it, before I ever see it. Now, we would have had an oral argument on it, with a bench memo maybe, but we would have had oral argument and I would have told them where I thought this case was going to come out and they go from there.

But when they draft an opinion, then all the law clerks critique it. And I say I want to see their critiques. I don't -- you know, I'm not going to just take your word --

JUDGE KOPF: Sure.

JUDGE RILEY: -- of what the other critiques are. So they write them, usually handwritten on the draft opinions.

And then the law clerk will revise them and they bring a

draft to me. And then I look at that and I look at all the other law clerks' critiques. And then I go back through the record. And I go back through the cases; anything that's cited in there, referred to in there, I will look at.

Then it goes back -- whatever changes I make will go back to the law clerk who had drafted it. They'll make those changes. If they don't agree, then we have a discussion and we will have sometimes a debate on what's the right answer.

And then, when we get done with that, I'll have another law clerk spade it and go through, you know -- well, spading, for those who don't know, that means you go back and you check all the citations and you check all the reference to the record and so forth, make sure it's accurate. And then it comes back to me to see what changes are.

Then it goes to my secretary, Kris. And she reads it to make sure it's in compliance -- she has two jobs: To make sure it's in compliance with the Eighth Circuit rules and standards; and, second, she reads it as somewhat of a layperson. And sometimes, you know, we write these things for lawyers or whatever and -- because I've told you, you know, these are mainly for non-lawyers out there. So she'll make suggestions about, oh, phraseology or a word choice or whatever, as well as grammatical. And so...

Anyway, when she gets done, I look at that and make some changes. Then the last thing is, the law clerk that drafted it

and one more law clerk, and they read it out loud. And it's surprising, when you sit and read it out loud, that all of a sudden some sentence that sounded perfectly fine when you're reading it in your mind, you read it out loud, it's just gibberish or it goes on too long or --

JUDGE KOPF: That was, you might be interested in knowing, was the final thing that happened in Judge Ross's chambers.

JUDGE RILEY: Um-hum.

JUDGE KOPF: The law clerk would read out loud the opinion to the -- we called her secretary, now judicial assistant --

JUDGE RILEY: Um-hum.

JUDGE KOPF: -- or vice versa. And it's surprising, isn't it --

JUDGE RILEY: Oh, Yes.

JUDGE KOPF: -- what you find?

JUDGE RILEY: And things will jump out.

JUDGE KOPF: Yeah.

JUDGE RILEY: Could be little things. "There," t-h-e-r-e, should be t-h-e-i-r.

JUDGE KOPF: Right.

JUDGE RILEY: And you go, how did we all miss this?

So anyway, then, of course, district judge, you're done. But we send it out to two other judges and they come back with

their comments. And most of the time it's, "I'm pleased to concur in your opinion." Sometimes they disagree. Sometimes they find typographical errors. Sometimes they say, well, I could go along with it except this language is a little too strong or I think we need to beef up this language. And so you end up -- you know, I soon learned what a majority of three is. You've got to get at least one judge to go along with your opinion. And then write -- you know, then they -- the law clerk will really work through whatever the judge's comments are. So they do work awfully hard.

I also have them -- let me back up a minute. There are really four parts to a circuit judge's job. One is to draft opinions and oral arguments, which is what everybody thinks about, but we have petitions for rehearing. For anybody, if you're an active judge, you have to read all that. I never gave that to the law clerks. I always did that to see if there was an issue that maybe we ought to have rehearing on.

We have what we call screening cases, which are cases that go without argument, that staff attorneys in St. Louis have worked on. I never gave that to my law clerks. I always did all that. We already had a lawyer in St. Louis that was working on it. It gets a little more detailed than that.

But then another area is the administrative panel matters, which, again, everything from a motion for a continuance to a motion for a stay of execution, and all kinds of things in

between, or stay of deportation or -- so there can be some important things in there that are not just routine. And I did all those. I don't think I ever asked the law clerks to do any of those things.

So those three areas -- administrative panels, screening panels, and PFR's, petitions for rehearing -- I did everything on that. And their whole job was to work with what I always said were the tougher cases, which are the -- usually the argued cases.

JUDGE KOPF: I'm going to switch a little bit on you now. It's 2010 and you become chief judge.

JUDGE RILEY: Um-hum.

JUDGE KOPF: So you've been on the bench, what, roughly nine years?

JUDGE RILEY: Um-hum.

JUDGE KOPF: So tell us about -- and you served roughly seven years as chief judge. Tell us about how easy being chief judge is. You're the chief judge of the entire circuit, which means you have responsibility not only for the Court of Appeals, but each of the district courts as well.

JUDGE RILEY: The way I describe it to people is the Eighth Circuit comprises seven states, from the Louisiana border to the Canadian border, from the Mississippi River to the foothills of the Rocky Mountains. It is a huge circuit. And, of course, we know those seven states are Minnesota, Iowa,

Missouri, Arkansas, North Dakota, South Dakota, and Nebraska. And we have courthouses all over that. We have judges, all that. And as chief judge you're responsible for all of that. You're responsible for -- make sure the judges are happy and everything's working smoothly.

About the courthouses, you know, one of the things here, we closed our library here. And for the record, that sounds bad but we just -- we're using electronics anymore, so we don't -- didn't need a library.

You worked on personnel matters.

You have to plan -- it starts over two years in advance to plan a judicial conference for the judges and then one for the judges and the lawyers.

And then you preside over the Judicial Council of the circuit, which is -- that's all of the Court of Appeals judges plus a district judge representative from each of the districts. And that's really the administrative body of the circuit. And it's kind of the ultimate power. There's certain parts of the statute says the chief judge will do this or the chief judge will do that, but generally speaking, the chief judge's power comes from presiding over the Judicial Council. And I did not come in with any particular agenda or anything other than one thing that I wanted to do was to get the district judges, the Judicial Council in particular, but also all judges, all the rest of the district judges and the

magistrate judges and the bankruptcy judges, more involved in the process. And up till then, at least my experience had been, as it came in, and the Court of Appeals judges and the chief judge kind of dictated everything that was going to happen. And, you know, you may or may not agree with that, but it was kind of top down. And I wanted to make it more bottom up.

JUDGE KOPF: And I'll just interject. I do agree with you. And I do think -- this is my opinion -- that you have made it more bottom up. And thank you.

JUDGE RILEY: Well, you're welcome. But we have -- as you -- a lot of this I know is going to the audience, but -- much of it you know, but the Judicial Council operates through committees. And one thing, the chief judge appoints all the committees. And so I worked -- spent a lot of time putting people on these committees that I thought would be interested in it, but even if they said, well, I'm interested in this committee but I thought they might be better somewhere else, I'd put them where I thought they ought to be. And I tried to put the district judges on committees. And the district judges never chaired a committee until two or three years into my reign and then I started making them chairs of some of these committees and, you know, they did just fine. I think some of the Court of Appeals judges started realizing, you know, this is -- you know, yeah, dump it on them, let them deal with it.

So -- but I really did -- that was one goal, was to get them more involved.

Another thing is -- as Judge Kopf knows, is one thing the chief judge does is fill in -- well, two things. One is if the judges of the District of Nebraska recuse themselves, they got to find another judge to come in. It goes to the chief judge and the chief judge finds somebody else in the Eighth Circuit to fill in. And I never had -- and I did that all over a lot of times. As you can imagine, in bigger districts, in Missouri, Minnesota, so forth, there were a lot of those. But I never had anybody tell me no. And I really appreciated that. And I tried to distribute it where people I thought maybe were not quite as busy or I thought they would fit in well with the other -- another district.

I picked on the District of North Dakota a lot because I knew -- you know, I had -- as chief judge, I had the information on their dockets and I knew that they were not as -- particularly as busy as some. So Ralph Erickson and, to a lesser degree, Dan Hovland, who kind of is out in the middle of the state, would fill in a lot of Minnesota and sometimes other places.

But backing up to where I was really headed on this, and that was sitting on the Court of Appeals. When we -- we had a lot of cases where we didn't have enough Court of Appeals judges to cover. And so, historically, we would go outside the

circuit and find other circuit judges around the country. And I know -- I'm not going to attribute it to anybody, but I know that some judges on our court felt that only Court of Appeals judges should be sitting on these cases. Well, that was not my view. My view was two: One is that our district judges in this circuit know our law. They're not coming in from the outside and have to figure out what it is. And, secondly, they're just as qualified. There but for the grace of God they could be Court of Appeals judges.

So I, with very few exceptions, one or two, I think all of these -- and there were a lot of designated judges that sat on the Court of Appeals, but I just drew on our district judges to sit on there.

And I know some of them weren't as -- weren't interested -- they never said no, but -- some of them really like to do it. Others, well, they're a little more reluctant. But I got -- I think I got a lot of them in there and some of them a lot of times.

JUDGE KOPF: So you're being chief judge at the same time you're being an active circuit judge?

JUDGE RILEY: Um-hum.

JUDGE KOPF: So what do you do for fun?

JUDGE RILEY: Well, it's very busy. The best way to explain this is to say March 10th was my last day as chief judge, so on Monday, the 13th -- I think that probably since

March 13th, I've had about five phone calls here, in whatever this has been, three months -- over three months, where I was getting sometimes five an hour or certainly multiple calls during the day, and emails and so forth. So the workload, as far as having to make decisions, on little things, they're not little to the people that are asking, but more routine things was almost constant.

JUDGE KOPF: Not only were you serving as chief judge and then as an active circuit judge, but you served on the Judicial Conference Committee on the Criminal Law and then, very significantly, you served as a member of the Executive Committee of the Judicial Conference. Why don't you tell us about those two experiences.

JUDGE RILEY: The whole judiciary of the United States is governed by the Judicial Conference of the United States, which is the Chief Justice of the United States, who is now John Roberts, was Chief Justice Rehnquist when I started, but Justice Roberts, he picks those people and -- or works with them. He sets the committees. And it also operates in a committee structure. And one of those is the Criminal Law committee. And Chief Justice Rehnquist put me on that and Justice Roberts, Chief Justice Roberts, put me on that and I served on that for six years. And that was before I became chief judge.

Once I became chief judge -- the Judicial Conference of

the United States is made up of all of the chief judges of all of the circuits and then a district court representative from each circuit. So our circuit, every -- well, it depends, every one year, sometimes we've done it three or four years, will elect a district judge to serve there. For example, Judge Linda Reade is now serving there. But when I was there, Judge Karen Schreier was there for a while; Judge Sippel, Rod Sippel, was there for a while. And that -- Judge Reade's from Iowa, Judge Schreier from South Dakota, and Judge Sippel from Missouri.

And then we would sit in this big, beautiful place in the Supreme Court, a big conference room; it's just gorgeous. And our circuit, the district judge always sits closest to the head of this gigantic table. And then I would sit there and then, of course, to my left would be the Seventh Circuit, to our right would be the Ninth. And it was very interesting. Although really, again, it was the committee structure that operates, that filters up to there, to what is called the Executive Committee of this big body of judges.

The Executive Committee is a group of seven judges that are all selected by the Chief Justice to serve in the absence of the Judicial Conference of the United States, which only meets twice a year. So three hundred and, you know, fifty-four days a year, the Executive Committee is the one that would be making decisions or creating a record to give to the Judicial

Conference.

And it really does -- the Executive Committee really does primarily operate administratively the whole judiciary. That doesn't mean that it's making -- you know, pushing and guiding things. It's more of a deliberative body that says, okay, how's the best way to handle these things? And, again, the committee structure, things come up through the Executive Committee and it decides whether that's a good idea or not so good or we ought to go back and research this more before we do it.

During my tenure, I was on it, the Executive Committee; I was chosen by Chief Justice Roberts. In fact, there's his letter up there to be on the Executive Committee. And I served on that for about five years, something short of five years, and during that time we had sequestration, which people in the future may not know what that was, but it's where they tied up the funds and the budget and it really put a real crimp in the federal judiciary's budget, and so we were moving money and trying to make sure that we had money to operate and where should we cut and where should we not cut and so forth. And that was a very tumultuous time.

We had a lot of issues that deal with public defenders. They're always pushing, pushing, pushing for more power over themselves and we're kind of always reigning them back a little bit.

JUDGE KOPF: And let me interrupt for just a minute.

In the federal system, the federal public defenders are -- it may seem odd to other people, but are an arm of the judiciary.

JUDGE RILEY: Um-hum.

JUDGE KOPF: And that was intended to protect the defenders, to give them a safe place to function where they might be free of the political ends, so to speak. I think that's the thinking.

JUDGE RILEY: Yes. And also to be out of a system that gives them some protection over the prosecutors who are in the executive branch. And you stop and think, well, where else would you put them? But -- but there is friction there.

JUDGE KOPF: Sure.

JUDGE RILEY: And plus we as judges -- and one of the things I do as chief judge, that people don't realize, that anytime a public defender -- well, not a public defender, but a Criminal Justice Act lawyer appointee goes over a statutory maximum, then I have to look at it. One of the time-consuming things I did was reviewing CJA vouchers, Criminal Justice Act vouchers. Well, that -- they work very closely together, the public defenders and the CJA lawyers, and that was kind of a constant issue that we on the Executive Committee had.

We got also into judicial -- I don't know what you want to call it, but maybe judges that were working too long, you know,

how do we deal with judges that maybe were having some mental issues or health -- any health issue, and we worked on matters for that.

We had one -- during my time on there, we had one district judge that we recommended to the Congress be impeached. That was tough and a lot of work went into that.

We handled a lot of things.

Later, probably a couple of years into that, the Chief Justice also designated me as the Long-Range Planning Coordinator for the whole federal judiciary. And I had a committee of one, me. But I had a lot of help from the Administrative Office of the U.S. Courts with a very good lawyer named Brian Lynch. And a lot of long-range planning happens. And we do long-range planning through the committees, the Judicial Conference committees. We also come back to the chief judges and the districts and the courts of appeals and so forth. One part of that is budgeting.

One of the things -- when I came in, long-range planning, they weren't doing anything with regard to money. And one of the things I said, you know, we got to realize that -- you know, I think sequestration was on the horizon. We've got to figure out our planning. What do we do "if" when it comes to budgets?

Another thing, more recently, just in the last year -- and I'm still the coordinator. They talked me into staying until

the last day, they said, so August 31, 2017, is my last day as an active senior judge, and they -- it's my last day as judicial coordinator, long-range planning.

But anyway, we set priorities. And we just -- every five years. So I was part of leading the process to set new priorities for the judiciary. For the most part, they were the same. But one that was not even considered in the past and became our number one priority -- now, historically this may not -- may be kind of obvious, but at the time it wasn't obvious, because it wasn't even in our prior strategic plans, we call them, wasn't in our strategic plans and now it's our number one priority, and that is cybersecurity. Because the judiciary is being hacked constantly; as the Chief Justice says, over a thousand times a month. And that was quite a while ago he said that. My guess is it's much more than that now. And it has been totally hacked by what people suspect are the Chinese. And so that -- we had to address that.

And, you know, we're -- I don't know if you know -- you know Merrick Garland, who President Obama had appointed to the Supreme Court, he and I on an Executive Committee were the ones that were pushing cybersecurity. And we were bringing people in in the Administrative Offices to do those things and kind of challenging them, well, what are you doing? And what can be done? And what do we need? And do we need more money? Do we need more people? Do we need -- what kind of people do we

need? And I remember asking the head person for Intellectual Technology, IT people, I said, "Well, what do we do to be as good or better than the private industry?" And I mentioned my son Kevin at Google. I said, "Well, how can we be as good or better than Google?" He kind of looked at me and backed up and he said, "That's never going to happen." And I said, "Well, why?" And he said, "We cannot offer enough money to hire the kind of people that private industry does," the Googles, the Microsoft, whoever it might be. We can offer more money but we -- we sell the -- kind of the benefit program of the judiciary and so forth. And I'm not -- I really didn't want to ask him what that meant, because I was afraid what it meant was we don't work as hard, but -- anyway. It was Merrick Garland and I that were challenging them to say, you know, you've got to -- you know, we've got to get on top of this.

So that's -- the Executive Committee tries to do those kinds of things of organizing and setting priorities and having a method to try to accomplish whatever goals we have. And then the strategic planning coordinator that I was is kind of in charge of that.

JUDGE KOPF: Well, I think it's fair to say that you were at the very pinnacle of the administration of all of the U.S. courts in the United States for five years. And that brought you in intimate contact with Chief Justice Roberts. And I think you and he have become good friends?

JUDGE RILEY: I wouldn't say good friends, but friends, yes.

JUDGE KOPF: Yes. Tell us a little bit about the Chief Justice.

JUDGE RILEY: And I would say -- the reason I say not good friends is -- I'll tell you in a minute some of the things I've done with him, but he is always the Chief Justice.

JUDGE KOPF: Yes.

JUDGE RILEY: He does not let his guard down at all. I have never been in a circumstance where he's let his guard down. I'm sure at home, and maybe with some friends, he can relax and not be -- but he was always Chief Justice. And that's why I say we were friends. But, you know, not "Let's go out to the bar and have a drink" --

JUDGE KOPF: Sure.

JUDGE RILEY: -- friend. I admire him greatly. He's a superb administrator. He runs the meetings and so forth.

But the way we interact was when the Judicial Conference meets, he chairs it. And then he has -- before the meeting he meets with all the district judges and after the meeting he will meet with the Court of Appeals chief judges. And we have breakfast with him at the Supreme Court, which is really a cool deal, to have the Supreme Court -- it's right off of the -- his chambers. And so in those -- those are more intimate relationships.

My contact with him really became much -- I wanted to bring him back to Nebraska and to the Eighth Circuit, which were two different projects. And I found out that his -- what he called his counselor, which is really his right-hand man, had spent some of his youth growing up in Omaha. And so then I started really working with him and say, you know, you ought to get the Chief Justice to come back. And he set the Chief Justice's schedule. And I worked -- I talked to the Chief Justice about it a lot, but -- but much more with -- Jeff Minear is his name. Jeff Minear and I would talk on the phone or when we were back there. And we eventually got him to come to Nebraska.

And Jeff told me -- the Chief Justice didn't say this, but Jeff told me, he said, the Chief Justice wants to thank you for all the work that you've done and he will come to Nebraska and to the Eighth Circuit to -- I can't remember his exact words, but says thank you for the work you've done.

Plus he had a goal -- he had a goal that he set to come visit all the circuits at their conferences, eventually, and to go to every state. He'd not been in Nebraska. He'd not been to the Eighth Circuit. And Jeff Minear said, "He wants to come while you're chief judge."

And so we're not -- I wouldn't say good friends, but we knew each other, we know each other fairly well, and have a mutual respect. And so he did come.

JUDGE KOPF: Well, you both went to a Nebraska football game --

JUDGE RILEY: That's true.

JUDGE KOPF: -- and sat next to one another. And who did he cheer for?

JUDGE RILEY: Well, that's a little story I have there. Again, he's the Chief Justice of everybody.

JUDGE KOPF: I realize that.

JUDGE RILEY: But he came to Nebraska. And we did a video recording for the -- well, anybody, for the public, but it was mainly Nebraska Law School students. We also put it out on the Nebraska network to watch -- high schools watch it, so forth. And I asked the questions. Now, Jeff Minear wanted to see the questions ahead of time. And I said fine. So I did the questions. He called me back, he had a couple little tweaks and that was it.

So I assumed -- my big blunder of this whole thing was I assumed that if Jeff Minear saw them, the Chief Justice saw them. So here we are on TV and everybody's out there and I announce and say it's wonderful to have the Chief Justice of the United States here, so forth, and I have some questions to ask him, which he's seen in advance, and so I go on. He had not looked at them. He does not like to know what the questions are. He'd rather handle them extemporaneously and just respond. But he was kind enough, he never said anything.

He never said, no, I've never -- he just went on.

Well, we did go to the football game the next day. And by then, all the news coverage said, well, he was asked prepared questions that he was -- knew of, you know. They all -- the media picked up on all this. And of course he hadn't. And that was my mistake. But he never said anything about it. He never -- never was critical or anything.

JUDGE KOPF: But you later corrected it in Arkansas when he came and you interviewed him, as I recall?

JUDGE RILEY: Um-hum.

JUDGE KOPF: And you made it very clear --

JUDGE RILEY: That's right.

JUDGE KOPF: -- as I recall, that he had not had prepared questions given to him.

JUDGE RILEY: That's right.

JUDGE KOPF: And I will simply say that the interview was one of the most fascinating, intellectually interesting experiences of my life.

JUDGE RILEY: Um-hum.

JUDGE KOPF: You did a great job and the Chief Justice is a smooth operator. He did this all extemporaneously, as I recall --

JUDGE RILEY: And did not know those questions either.

JUDGE KOPF: That's my recollection.

JUDGE RILEY: Let me finish the football one and that one, but let me finish that one.

What I remember is I was asking these questions and I introduced one of them, I said, well, this is a question I'd asked at Nebraska and he had some what I thought were very important answers, so I asked him, I said, would you like to tell the audience about such and such? And he looked at me and he said, "No" and just left me hanging there. And I could see the twinkle in his eye. I don't know if you remember that.

JUDGE KOPF: I do.

JUDGE RILEY: You know, he was doing that on purpose. It just left me hanging there. And so I answered it. I said, well, at Nebraska he said such and such. And he just let me answer it.

Back to football. So the next day we go to the football game and they had a -- with some of the big boosters they had a little luncheon. And he wasn't asked to speak or anything but he was there. And I first walked up and I just apologized for saying that and I said -- because in the meantime Jeff Minear had told me that, that he had not reviewed the questions. He said, "Oh, that's no problem. Don't worry about it."

So -- so he's sitting right there and the chancellor of the university then was --

JUDGE KOPF: Harvey Perlman?

JUDGE RILEY: -- Harvey Perlman. So Harvey Perlman

gets up and he introduces the Chief Justice and he introduces me. And then he says -- Harvey Perlman, chancellor of the university, says, with all these big boosters and all these -- he says, "And as I understand, I gave Judge Riley his lowest grade in law school," which he did.

JUDGE KOPF: Chancellor Perlman was previously the dean of the law school.

JUDGE RILEY: Um-hum.

JUDGE KOPF: And prior to that was a torts professor, if I recall correctly?

JUDGE RILEY: Um-hum. And I had him -- I had him actually for domestic relations and they'd just changed the divorce laws in Nebraska. And anyway, that's another story.

But we did have him back in Arkansas and he was very charming there.

And Norma and I went out -- back to Nebraska, Norma and I went out to dinner with him and Jeff Minear and Jeff Minear's wife in Nebraska. That was the closest to letting his hair down. We talked about our family histories and the kind of things we like to do and so forth and -- but, again, he was still the chief -- you were having a casual conversation with the Chief Justice. But he is a brilliant, charming man. And it was just certainly one of the highlights of my career, was getting to know him and work with him.

JUDGE KOPF: Well, Judge, I want to -- do you have

any remarks you'd like to make about your colleagues on the Eighth Circuit? I mean, in generalizations?

JUDGE RILEY: Yeah. It's been a real pleasure working with all of them. I've gotten -- we've all gotten along well. Obviously, you become maybe closer to some than others, but we all work, and we work very hard, and all the judges work hard to be congenial. And that may sound logical or "of course they do." No, that's not true. I know circuits, that will remain anonymous, and I know very accurately that about half the court does not speak to the other half of the court. Judges will not talk to other judges. It's like you and I can even work in the same building and not talk to each other. And they write very -- I don't know, harshly to each other.

In fact, from our court, Judge -- we had a -- one of the things we did on my watch as chief judge is we have come to an agreement where we can take bankruptcy judge positions that we have in the Eighth Circuit that are not filled, because we don't need them, and we're moving them to other places where they really need bankruptcy judges. And one of them was in Florida and the other one was in Michigan. And I -- so they're technically Eighth Circuit bankruptcy judges but they're actually from central Florida or Detroit.

And so I -- I had appointed three judges from our circuit to go be with three judges from the Middle District of Florida

and three judges up in -- well, actually, the Fifth Circuit and then the Sixth Circuit, to choose -- to hire somebody. Now, we made the hire, but we really let them pretty much decide it because it was going to be their judge.

And it confirmed what we found out. And I -- Judge Duane Benton of Kansas City, Missouri, from our court, was the chair of that committee. And he confirmed with me that -- he said our court is just a pleasure to work with because he's working with these circuit judges and -- I don't want to get into any specifics --

JUDGE KOPF: Sure.

JUDGE RILEY: -- but it was just not the same atmosphere. So I thank them for that. And it's an atmosphere that we work hard at and they're all wonderful.

I had -- I'd have to mention -- I hate to mention any individual judges because then you leave somebody out, but before he'd passed away, I got to work with Richard Arnold. And as Judge Kopf knows, and anybody in the Eighth Circuit, what a brilliant mind and what -- the consummate gentleman that he was. And I sat with him on several panels. I had set up a panel in North Platte that turned out to be two panels so we could be in western Nebraska, show the flag, and play a little golf at the Sand Hills Golf Course.

Richard Arnold was a wonderful golfer. And he was not in good health. And he went and he made it through nine holes,

beat everybody for nine holes. And then he came and he asked -- he stayed for dinner, but then he asked Norma and me to take him back to Lincoln to get a car, because he just didn't feel well. So I got to ride home with him -- or drive him back. And over the years got to know him. When he passed away, a lot of people said he was, you know, probably one of the greatest legal minds ever to not be on the Supreme Court. Learned Hand -- they put him in the category with Learned Hand. He was such a marvelous person. And it's also reflective of the Eighth Circuit and all the judges about how, you know, how friendly and nice they are to people.

So I would just say it's a very congenial court. And they really do -- you know, we agree on most things; but when we don't agree, it is congenial. We rarely write tough opinions attacking the other side. And that's not always been the case, on our court or certainly other courts.

JUDGE KOPF: I'll just make a quick observation. I think that in part, in large part, was because of Judge Richard Arnold. He brought, in my opinion, his overarching brilliance, but just the kindest, decent man in the world. And I think he became a circuit judge in '80?

JUDGE RILEY: Sounds about right.

JUDGE KOPF: Yeah. I don't think one can underestimate the impact that Judge Arnold had, not only on the law but the collegiality about which you speak.

JUDGE RILEY: Well, and for the record, Richard Arnold was from Arkansas. He grew up in Texarkana, Arkansas, but lived in Little Rock and -- and out of Arkansas.

JUDGE KOPF: Well, we're nearing the end. If you were to write a book about the Eighth Circuit -- you've talked about the collegiality, so set that aside for a minute -- what would be in your book?

JUDGE RILEY: About the Eighth Circuit?

JUDGE KOPF: Yeah.

JUDGE RILEY: Oh, you know, the thing -- and I know you'd mentioned earlier, before we started this, about what do I -- you know, maybe opinions or something that I -- I don't remember opinions so much as I remember people. And I remember certain lawyers. I remember, obviously, the judges. Many of the judges that I -- when I came on the court are no longer with us. Not only Richard Arnold but Ted McMillian, who was the first black judge on the Eighth Circuit, wonderful man, in the same vein of collegiality as Richard Arnold. Don Ross. I got to sit with him one time; first time I sat and the last time he sat.

But anyway, I remember the individuals. And, yes, some of us are characters, but -- I would include the district judges and the bankruptcy judges. I can't say I know all of them. And the magistrate judges, I can't say I know all of them. But I would probably know most of the district judges. Some of the

new ones coming on I don't know as well. But to me, it's a big judicial family, and that's one thing as chief judge I tried to encourage, was we're all in this together and, for the most part, that's worked out. And I think the history of the court, we don't always agree but I think we all always get along.

JUDGE KOPF: This is an odd question and may be an unfair one, but I've been unfair most of my life so I'm going to ask it. How do you want to be remembered?

JUDGE RILEY: You know, I've never thought about that. I hope I'm remembered as a judge, as not somebody that came with some sort of an agenda or trying to push my own views on things, but somebody that wanted to find out what was right under the law as it stands today -- may not always be that way, but as it stands today -- and take the facts as we find them. And when I instruct my law clerks, I said, you know, sometimes we may look at something and say that this is the way it ought to be, but we can't -- the facts don't support it or the law doesn't support it, and to do what's right based on the facts of a particular case and the law that may apply.

And the other thing I would say would be hopefully congeniality. You know, I never know when people are sincere or just blowing smoke, but they're -- when I stepped down as chief judge, there were a lot of nice things that were said by -- but not only judges -- probably less by judges, but more by staff and -- well, district judges, I got some very nice

comments by district judges --

That clicking's my phone. Should have turned it off.

And about -- what we were talking about is the collegiality and getting along with people. And I don't want to repeat some of the things because it embarrasses me -- embarrassed me when I read it or they spoke it, but -- to repeat it here, but I hope that they thought that I helped keep the court, and I mean the whole Eighth Circuit, running well and collegially and so forth.

And again, I don't expect to have any, you know, "He wrote this opinion." I've had the Supreme Court affirm me and I've had them reverse me.

One of my laughing -- and Judge Ray Gruender from St. Louis, he said, I got reversed but all I was doing was citing your opinion that you had written. It was your idea, you know, and I'm compelled to follow it and then I get reversed and it's on my record.

So -- anyway, we had to -- you know, we -- I have a record -- I have no idea, I've never kept score on those things, but the cases, hopefully I got them right, but I don't keep track of those.

JUDGE KOPF: Well, we're at the end. And I'll simply give you the last word.

JUDGE RILEY: Well, Rich, I want to thank you for doing this. I know, you know, being the head --

JUDGE KOPF: It's been my pleasure.

JUDGE RILEY: -- of the Historical Society, you've done this for years.

JUDGE KOPF: Yeah.

JUDGE RILEY: And I thank you for that. And it's a great opportunity to kind of document the history of our circuit and you've got a lot of -- you've got a lot of judges on there.

No, I have nothing to add other than I should mention just a few people. As you well know, Millie Adams is our Circuit Executive. And she made my job as chief judge, or as a circuit judge, immensely more enjoyable, but certainly easier. She's a remarkable woman with a lot of knowledge and talent and her staff --

JUDGE KOPF: And diplomacy.

JUDGE RILEY: And diplomacy. She could just about talk you into anything, the whole time laughing and smiling and --

JUDGE KOPF: Yes.

JUDGE RILEY: -- before you know it you've agreed to do something that you didn't want to do.

And of course Michael Gans, our court clerk, who certainly is recognized as one of the top in the country, and -- if not the top court clerk. And as chief judge I worked with him a lot and he's just a marvelous person, both in his job but as an

individual.

And, of course, all my law clerks and my judicial assistant, who I still call as a secretary because that's what she was when I was a lawyer, Kris Schneiss. And we're going to hang it up at the same time. And as I said, we're going to get on our horses and ride off into the sunset.

But it has been most enjoyable. Even though I thought you should have had the job, I'm glad I got it.

JUDGE KOPF: No, as I said at the time of your swearing in, the President made the right choice for obvious and subtle reasons, and I am honestly glad he did. You've done Nebraska and yourself proud. And I am sincerely proud of having the privilege of knowing you these last long years.

JUDGE RILEY: Yeah.

JUDGE KOPF: So I think we'll wind up and let the court reporter and the videographer rest.

JUDGE RILEY: Okay.

JUDGE KOPF: We're off the record.

JUDGE RILEY: Thank you again.

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