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WRITTEN UNDER SEPTEMBER SKIES FOR A QUIET HERO OF OUR TIME: A TRIBUTE TO THE HONORABLE WALTER H. RICE

*Shauna McSherry**

My journey toward the man who is the “moral conscience of our community”¹ begins on Interstate 675, a beautifully wooded highway traveled by thousands daily. Most are probably unaware that this road, which takes them so quickly and easily to their destinations, might not exist but for a decision issued early in Walter Rice’s career as a federal judge.² The scene was set, with angry citizens who were opposed to the highway asking for an injunction. After hearings were held, Judge Rice issued a decision denying the injunction and letting construction proceed. No appeal was even taken, allowing a situation to be resolved that could have delayed the highway for years. The decision has been described as one of the clearest examples of Judge Rice’s power.³ In fact, bulldozers started on the project within minutes after the opinion was filed.⁴

In hindsight, few question the value and convenience our community has gained from this highway. However, as I travel through the rolling landscape and think about the Dayton Aviation Heritage National Historical Park, the Dayton Dialogue on Race Relations, the Greater Dayton Volunteer Lawyers Project, and so many other activities and organizations in which Judge Rice has been a driving force, I know that far more important contributions than this highway have been made. These contributions come from a man who is “altruism personified,” and who works quietly behind the scenes for the betterment of all.⁵

My first stop is Huffman Prairie Flying Field, one of four sites in the Dayton area that form the Dayton Aviation Heritage National Historical Park (National Park). Huffman Prairie is where the Wright brothers perfected their craft in 1904-1905, solving problems like turning, banking, and landing a machine in flight. To reach the field, I leave Interstate 675,

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¹ Interview with David Ponitz, President Emeritus of Sinclair Community College (Sept. 15, 2004).

² *Citizens Comm. Against Interstate Route 675 v. Lewis*, 542 F. Supp. 496 (S.D. Ohio 1982).

³ Joseph Deinlein, Cincinnati Business Courier, *Judge proudly serves as steward of the law*, <http://cincinnati.bizjournals.com/cincinnati/stories/2001/01/29/focus5.html> (accessed Nov. 16, 2004).

⁴ *Id.*

⁵ Interview with Madeline Iseli, former Exec. Dir. of the 2003 Comm. (Sept. 16, 2004).

travel past Wright Patterson Air Force Base, and eventually end up on another tree-lined highway, only to find the gate closed on this Sunday morning. From the highway, I see that the site is next to a golf course. I wonder what the Wright brothers would think if they could see the world we live in, where being lifted thousands of feet in the air above lofty white clouds they could only dream of reaching, is taken for granted. To us, air travel is a convenience, nothing more.

Since the field is closed, I travel on to the Wright Memorial and park in a lot shaded by towering evergreen trees that seem more in tune with Colorado than homespun Dayton, Ohio. As I arrive, a family with three small children leaves the Huffman Prairie Flying Field Interpretive Center, which is also part of the National Park. Two little girls wear identical dresses, one in green and one in pink, along with matching bows in their hair. Their brother, a boy of four or five, is dressed most earnestly in creased pants and a plaid shirt. I am reminded of simpler times, when families looked like that, and I am glad this place is here for them to see.

The fact that the Interpretive Center exists at all is due in great part to Judge Rice, who was an early champion and was “absolutely instrumental” in getting approval for the National Park.⁶ In the late 1980’s, Judge Rice was approached by people interested in creating a national park to recognize the Wright brothers and American poet, Paul Lawrence Dunbar. Judge Rice immediately saw the need and potential for the project, and became the first chair of the 2003 Committee, which was dedicated to preserving and enhancing the Dayton area’s aviation heritage, with specific emphasis on the Wright brothers, including their close relationship to Dunbar.⁷ The 2003 Committee began in 1988-1989, and was named for the anticipated Centennial Flight Celebration.⁸

Because of Judge Rice’s early championship, other community leaders and corporations like Bank One became involved with the project. A general management plan was created, and by 1992, legislation was passed to create a national park. The fact that so much happened with more efficiency than usual, was due in part to Judge Rice’s strong leadership.⁹

Before entering the Huffman Prairie Interpretive Center, I walk to the Wright Memorial, which was built in 1938 to commemorate the birth of flight. The Memorial overlooks Huffman Prairie Flying Field and the air force base. Today is a profoundly beautiful autumn day, with clarity and color in the sky that must surely look as it did 100 years ago, when the Wright brothers were busy solving the mysteries of controlling a machine

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Interview with Mary Mathews, former Exec. Dir. of Carillon Park and current chair of the Aviation Heritage Found. (Sept. 13, 2004).

in flight.

The Interpretive Center itself is filled with interesting exhibits on flight, and like most of the National Park, it is free of charge. One site that is not free, but well worth the fee, is Carillon Historical Park, where the Wright Brothers Aviation Center is located. That will be my next stop.

I last visited Carillon Historical Park twenty-two years ago, on a warm summer day that ended in a rainstorm. That shouldn't be a problem today. Although I am visiting two days after my trip to Huffman Prairie, this is another cloudless day, with intensely blue skies.

I pay my fee to enter, and walk to the Aviation Center. On the way, I pause at a large sign that tells the story of how Orville Wright oversaw technicians who painstakingly restored the 1905 Wright Flyer III. Orville worked to re-assemble the plane many years after it first flew because his good friend, Colonel Edward Deeds, wanted a centerpiece for the transportation park. A picture on the sign shows the two men together, sharing a joke or quiet moment of amusement. Their smiles are quite broad. I wonder, as I often do when looking at old photos, about the irony of seeing people captured vividly in one instant of their lives, after they have long been gone from view.

I glance at the visitors on this tranquil weekday afternoon, and see a family, both young and old. One man pushes an older man in a wheelchair, while a young boy in an orange football jersey runs beside them. The older man keeps calling "Beep, beep!" when the boy pulls ahead. As I watch, I'm aware that we too, will be just pictures in albums one day, though we are here now – so it is good to think about the legacies we might leave behind.

The legacy of the Wright brothers is obvious, and well-documented. Judge Rice's legacy is also clear, but is not well-publicized because of his humility about his efforts. Judge Rice has been described as a "very selfless"¹⁰ and "modest, self-effacing person."¹¹ As one community leader put it, "People recognized that he was always ready to be of assistance, to be a good listener, to be a sharp questioner. Here was a very sharp, able mind at work for the betterment of the community. He assisted quietly with their projects."¹²

I'm aware of the effect of this innate modesty as I walk in the Wright Aviation Center. I see several names listed on the door, but Judge Rice's name is not among them, although he has been integrally involved with the National Park. I realize then that I have not seen his name at any of the park sites. He is the kind of man who would be uncomfortable with

¹⁰ Interview with Lisa Kloppenberg, Dean of the U. of Dayton Sch. of Law (Sept. 22, 2004).

¹¹ Mathews Interview, *supra* n. 9.

¹² Ponitz Interview, *supra* n. 1.

public recognition of his work. In fact, Judge Rice's humility, as well as his famed wit, are revealed in his comments about people I interviewed for this article. I recently asked the judge for names of people who could discuss his community impact. Later, I wrote and mentioned glowing reports I had received from those I had contacted so far. Judge Rice wrote back and said, "You have obviously spoken to the three people on the list of seven who have something good to say about me. Perhaps, you'll get a more objective picture when you talk to the other four."¹³ He was wrong, of course. The respect, admiration, and gratitude for his efforts were unanimous.

After seeing the famous 1905 airplane and watching early film footage of the Wright brothers flying airplanes in the face of seemingly impossible odds, I travel on to the next two stops in my journey – the Wright Cycle Company Complex and the Dunbar House. The Complex is located west of downtown Dayton, at the corner of Third and Williams Streets, and the Dunbar House is several blocks to the north. As I drive around the area, I cannot help but notice the attempts to push back urban blight. Proud, colorful homes sit next to boarded-up, peeling wrecks and vacant lots. Attractive shops line the block by the complex, but deserted storefronts are not far away. This brings to mind another contribution of Judge Rice: his service as the charter and only chair of the Aviation Commission.

The Aviation Commission, a federal commission, was created after the National Park was approved in 1992, to hold federal funds and accomplish tasks the National Park could not, such as find money for economic development.¹⁴ Among other things, the Commission helped spur development on Dayton's West Side, an economically depressed area of town, by finding partners to renovate houses in the Wright-Dunbar area. I can see the obvious results of their work as I park next to the Wright Cycle Complex. Immaculate homes line both sides of the street. The National Park has been described as an "incredible legacy" of Judge Rice,¹⁵ but this row of attractive homes bears testament to other legacies, the importance of which cannot be overstated. Renovation of the Wright-Dunbar area has been described as "one of the city of Dayton's biggest success stories — and one many people hope to see duplicated in the numerous housing projects under way or in the planning stages for Wright-Dunbar and surrounding West Dayton neighborhoods."¹⁶

¹³ Interview with Hon. Walter H. Rice, (Sept. 29, 2004).

¹⁴ Mathews Interview, *supra* n. 9.

¹⁵ Iseli Interview, *supra* n. 5..

¹⁶ Kristen Wicker, *The Wright Time*, <http://dayton.bizjournals.com/dayton/stories/2002/09/02/focus1.html> (accessed Nov. 17, 2004); Rhine McLin, *State of the City*, http://www.cityofdayton.org/city_commission/stateofthecity04.pdf (accessed Nov. 17, 2004).

Although the Bicycle Shop is closed for remodeling, I'm able to go inside the Wright-Dunbar Interpretive Center. I find I am drawn to exhibits about Paul Lawrence Dunbar. Of particular impact is a huge portrait of his face that appears to be nearly ten feet tall. What strikes me is the very pensive look in his eyes. In fact, Dunbar looks troubled or sorrowful in all the photos I see. I don't know if this is due to the poor health that eventually caused his death at an early age, or to the fact that such a gifted man could only find a menial job when he graduated from high school in Dayton, or to the difficulty of being an African-American in the late Nineteenth Century in America. Perhaps it is some combination of all of these. I do know that the expression on his face haunts me as I leave the Complex.

When I arrive at my car, I notice people on the porch of a trim house to the right. A Caucasian woman sits in a swing, while an African-American woman sits in a chair to her left. They chat and smile, while I watch and traffic rumbles by. Just as I pull out from my parking space, I see a Caucasian couple arriving with a baby. The African-American woman on the porch smiles in welcome, and I think that perhaps there is hope for race relations after all.

If hope exists, much credit is due to Judge Rice, who "has shown himself to be concerned about the entire community, so people of all faiths and backgrounds and creed and colors feel they can approach him to take on things and he does."¹⁷ One of many causes, and among the most essential that Judge Rice has taken to heart, is improvement of race relations. I think about this as I drive past the Dunbar House and around the surrounding neighborhood. I am ashamed to say that I have never been on these streets, even though I've lived in the Dayton area for many years. Further, evidence of urban blight still exists, despite progress, and much work remains to be done.

Judge Rice has been called "a role model for many of us in terms of getting involved in the issues of the community that are tough issues."¹⁸ One such issue has been the settlement of the Dayton desegregation case and ultimate lifting of the busing order that was first entered in 1976.¹⁹ I am aware of the difficult nature of desegregation issues as I drive through the Wright-Dunbar area. I see that Edison Elementary sports a label of "National School of Excellence." Yet, at the same time, the Dayton Public Schools have suffered from declining enrollment and stagnant student

¹⁷ Iseli Interview, *supra* n. 5.

¹⁸ Interview with Brad Tillson, former Publisher of the Dayton Daily News, and steering comm. member of Dayton Dialogue on Race Rel. (Sept. 13, 2004).

¹⁹ *Dayton Bd. of Educ. v. Brinkman*, 433 U.S. 406, 408-409 (1977); *Dayton Bd. of Educ. v. Brinkman*, 443 U.S. 526 (1979).

achievement.²⁰ A commission charged with studying these problems reported in February 2002 that the Dayton Public School System faced several challenges, including that:

The district continues to operate under one of the nation's oldest court-ordered desegregation plans. This is not necessarily a bad thing. But it undermines parental choice of schools and community satisfaction. It also diverts scarce resources from badly needed academic programs.²¹

Desegregation litigation in Dayton originally began in 1971, and was not resolved until 1979.²² The 2002 commission noted that the Dayton Public School System had sought relief from the desegregation order by applying for unitary status, which is a finding that schools have made the transition from a segregated or racially "dual" system to a desegregated or "unitary" system.²³ However, the Dayton desegregation plaintiffs were not satisfied with the school district plans.²⁴ The commission stressed that major changes were imperative because the troublesome areas portended "serious challenges to the viability of the Dayton Public Schools within a few years."²⁵

Another lengthy, divisive, and expensive court battle in connection with lifting the desegregation order could have negatively affected the school system.²⁶ Luckily, however, Judge Rice is a "super-mediator," who has the skills to bring people together to think about how issues can be resolved without judicial intervention.²⁷ The judge has taken on such a role in many cases, including the Dayton desegregation case. By working with the parties and an appointed mediator, Judge Rice was able to get the parties to agree to unitary status rather than engage in "verbal fisticuffs."²⁸ Consequently, the city discontinued cross-town bussing and the money that paid for it was redirected to academics.²⁹ Under the settlement, the Dayton Public Schools received \$32.3 million from the State of Ohio over five years.³⁰ Of that amount, \$25 million was to be spent on improving facilities, and \$7.3 million was to be placed in a contingency fund for

²⁰ Council of the Great City Schools, *Raising Student Achievement in the Dayton Public Schools* 6, <http://www.cgcs.org/management/Reports/DaytonFinalReport.pdf> (accessed Nov. 17, 2004).

²¹ *Id.* at 12.

²² *Brinkman*, 433 U.S. at 408-409; *Brinkman*, 443 U.S. 526.

²³ Council of the Great City Schools, *supra* n.20, at 12.

²⁴ *Id.* See also Maree Sneed & Carmel Martin, *Practical Guide to Issues Related to Unitary Status*, http://www.nsbba.org/site/doc_cosa.asp?TRACKID=&VID=50&CID=1348&DID=3713 (accessed Nov. 17, 2004).

²⁵ Council of the Great City Schools, *supra* n.20, at 12.

²⁶ Education Week on the Web, <http://www.edweek.org/ew/newstory.cfm?slug=32daytonside.h21>. (April 24, 2002).

²⁷ Ponitz Interview, *supra* n. 1.

²⁸ *Id.*

²⁹ Education Week on the Web, *supra* n. 26.

³⁰ *Id.*

academic improvements.³¹

Another example of Judge Rice's involvement in tough community issues, and one in which he takes justifiable pride, is his 1984 mediation of the Cincinnati school desegregation case. That case required attention seven days a week for six weeks, and ultimately ended in a settlement even though contentions had been ongoing in one form or another since 1963.³² Several years later, when evaluating the Cincinnati Public School District's compliance with the 1984 consent decree, Judge Rice commented that the settlement of the desegregation lawsuit:

was both a historic and a significant moment. For the first time, a lawsuit which had been filed seeking a remedy of court-ordered desegregation had been settled and settled in a manner that allowed the very school district which had been charged with promoting or allowing unconstitutional segregation within its midst to be placed in the unique position of "Captain of its Own Ship," with a destination to the voyage defined in terms of objective desegregation goals, negotiated at arms length between people of good faith (as opposed to being ordered by a court as a remedy subsequent to a finding of intentional, systemic discrimination), but with the means to achieve that successful voyage, those agreed upon desegregation goals, wholly and totally left to the discretion and informed judgment of that school district's board of education.

That this litigation was settled short of trial was a tribute both to the good faith and good will of the participants, secure in the knowledge that all parties desired and were committed to the same goal -- quality, integrated education -- *and* to the realization that in a hard-fought, fully litigated school desegregation lawsuit, there are *no* winners, for regardless of which side ultimately prevails, after years of trials and appeals, after untold thousands or millions of dollars in expenses and fees and after millions of words spoken in anger within the crucible of a courtroom setting, *all* parties would be the losers, plaintiffs, defendants and the people and educational system of Cincinnati, due to the residue of bitterness, anger and division that would hover over and poison the effectiveness of the school system for

³¹ *Id.*

³² Rice Interview, *supra* n. 13. See also *Deal v. Cincinnati Bd. of Educ.*, 244 F. Supp. 572 (S.D. Ohio 1965); *Bronson v. Bd. of Educ. of City Sch. Dist. of Cincinnati*, 525 F.2d 344, 351 (C.A. Ohio 1975); *Bronson v. Bd. of Educ. of City Sch. Dist. of City of Cincinnati*, 573 F. Supp. 767, 771 (S.D. Ohio 1983).

years to come.³³

In characteristically eloquent, but modest fashion, Judge Rice also commented on his thoughts while visiting all the low-achieving schools in the district. The judge noted that:

Over the course of three days, this Court visited every one of the low-achieving schools, speaking to principals, supervisors, teachers and students. One wishes, in describing these experiences, that there existed within him the soul and writing ability of a poet, rather than the prosaic writing style of a lawyer turned Judge. Suffice it to say, that when one realizes the obstacles against which these dedicated people fight every day of their working lives, when one realizes that they keep alive the expectation and promise of success in their pupils' minds, rather than the inevitability of failure, then one realizes that when he is in the presence of a principal or teacher in these schools, he is in the presence of true giants, whose work and daily contributions make the lives and contributions of others, more highly publicized or more richly rewarded in financial terms, seem meaningless by example.³⁴

Although Judge Rice ended his oversight of the Cincinnati desegregation efforts in 1994, Cincinnati continues to struggle with racial progress. For example, in 1998, the Cincinnati plaintiffs asked Judge Rice to resume supervision, claiming that sufficient progress was not being made in the remaining areas. However, the judge declined the request.³⁵

As I leave the Wright-Dunbar district and drive back to downtown Dayton, I am aware that the City of Dayton continues to have its share of struggles, too. I am traveling through lower Dayton View, which was an enclave of wealthy families in the early twentieth century. The ride is a sobering one – architectural treasures of all kinds stand next to crumbling, abandoned homes. I wonder at the myriad of problems in cities like Dayton and Cincinnati, that are so deep and complex, and about how they might be solved.

One such solution is the Dayton Dialogue on Race Relations (DDRR) described as “yet another monumental undertaking that Judge Rice has thrown himself into.”³⁶ DDRR is “a community initiative that uses

³³ *Bronson v. Bd. of Educ. of City Sch. Dist. of City of Cincinnati*, 1991 WL 1101072, *1 (S.D. Ohio June 29, 1991).

³⁴ *Id.* at 1991 WL 1101072, *9 (footnote omitted).

³⁵ Andrew Conte, *Deseg Case Goes Back to Judge*, <http://www.cincypost.com/news/1999/deseg060899.html>. (accessed June 8, 1999); Rice Interview, *supra* n. 13.

³⁶ Iseli Interview, *supra* n. 5.

honest conversation, understanding and action to bring people of different races together through conversations held in living rooms, churches, schools and workplaces throughout the Miami Valley.”³⁷ Judge Rice has been the co-chair of DDRR since its inception, and puts in countless hours on it between meetings.³⁸

DDRR is based on Hope in the Cities (HIC), which is headquartered in Richmond, Virginia and is “a program of Initiatives of Change[,] . . . an international network of people of diverse convictions and faiths working for new motives and relationships at all levels of society, beginning in their own lives.”³⁹ When DDRR was being planned, co-chairs were needed who would be champions in the community. The top name mentioned was that of Judge Rice, who had been a champion for all kinds of issues. When asked to co-chair, Judge Rice “didn’t blink an eye. He felt this could be the changing initiative for Dayton and the surrounding community.”⁴⁰

DDRR was launched in October 2000, when 500 people met at a downtown reception to call for community Dialogues on race.⁴¹ According to one source, “That is the kind of drawing power Judge Rice has. A tremendous number of people took part in that effort. His leadership drew a lot of people into that effort that might not otherwise have gotten involved.”⁴²

“In a typical Dialogue, a dozen men and women — balanced by race and led by a facilitator — meet several times, 12 hours total. They talk about community ethnicity, discrimination, diversity, division, history, privilege, social structures, separation, forgiveness, repentance, reconciliation, hope and action.”⁴³ Action plans are created, and involve matters ranging from continuing socialization in each other’s homes to buying school library books showing diversified views of history.⁴⁴ In the first few years of its existence, DDRR led more than 80 Dialogues, trained 83 facilitators, and engaged nearly 1,000 people in the program.⁴⁵ By all accounts, the program has been a great success. “Lawyers and other people who have been involved with the DDRR have said it really changed their lives. It opened their eyes to new ways of relating to people with different

³⁷ The Dayton Foundation, *Grant Fosters Improved Race Relations*, <http://www.daytonfoundation.org/dialogue.html> (accessed Dec. 2, 2004).

³⁸ Tillson Interview, *supra* n. 18.

³⁹ Interview with Sarah Harris, former Montgomery County Commissioner and former co-chair and current facilitator of Dayton Dialogue on Race Rel. (Sept. 30, 2004). Hope in the Cities maintains a website at: <http://www.hopeinthecities.org/index.htm>.

⁴⁰ *Id.*

⁴¹ The Dayton Foundation, *supra* n. 37.

⁴² Mathews Interview, *supra* n. 9.

⁴³ The Dayton Foundation, *supra* n. 37.

⁴⁴ Rice Interview, *supra* n. 13.

⁴⁵ Robert Webb, *I was Born with the Segregation Gene* p. 6, <http://net.iofc.org/storage/private/orgunits/11/hic-newsletter-0301.pdf> (accessed Jan. 24, 2005).

life experiences.”⁴⁶

Both the Dayton desegregation settlement and the Dayton Dialogue on Race Relations are instances of Judge Rice working quietly to aid the community, but never asking for recognition. As one interviewee said: “What an impact this one man has had on the community that most of the community doesn’t even know! This is largely because of his humbleness and modesty.”⁴⁷ In fact, every person I interviewed paid tribute to Judge Rice’s lack of pretension. Their precise words may differ a bit, but the consensus is that Judge Rice is, “a terrific mentor. . . . [He supports] all kinds of people. He has the ability to cross all sides of the street, talk to all kinds of people. He does not get caught up in status. That is the warm, genuine part of him that all folks in the community appreciate.”⁴⁸

Among those in the community who deeply appreciate Judge Rice are the faculty and students at the University of Dayton School of Law. My journey to the man who is our moral conscience, but “would never admit to that,”⁴⁹ cannot be complete without a stop at the law school, where Judge Rice has been a valued adjunct instructor and advisor for many years. By 1987, when Dean Francis Conte came to the school, Judge Rice was already a legend in terms of his trial practice teaching.⁵⁰ Besides being a very thoughtful source of advice for the Dean, Judge Rice was “a wonderful personal and professional resource.”⁵¹ “Whether it’s professionalism or strengthening the diversity of the law school or teaching, Judge Rice has been a key person. . . . He’s probably contributed more than any member of our legal community as far as supporting the law school.”⁵²

Judge Rice’s contributions to the law school are many, and reflect issues that have been the focus of his community efforts. For example, the judge chaired the law school’s external affairs committee and was very active, particularly in advancing the school’s interest in recruiting a more diverse student body.⁵³ He was also instrumental in starting the Barbara Jordan Roundtable, which, among other things, is devoted to increasing opportunities for the minority bar.⁵⁴ Several programs have resulted from the Roundtable, including the law school summer minority clerkship program, which has been a very positive experience for students. In each of the past 7 years, 7 to 15 minority students have had an opportunity to clerk for various established law firms, corporate law departments, public law

⁴⁶ Kloppenberg Interview, *supra* n. 10.

⁴⁷ Iseli Interview, *supra* n. 5.

⁴⁸ Harris Interview, *supra* n. 39.

⁴⁹ Mathews Interview, *supra* n. 9.

⁵⁰ Interview with Francis Conte, Prof. of Law and former Dean U. of Dayton Sch. of Law., (Sept. 10, 2004).

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*; Rice Interview, *supra* n. 13.

offices, and judges in the Dayton community.⁵⁵

In addition, Judge Rice was the impetus for developing the annual “Walter H. Rice Jurist-In-Residence” program at the law school, and has filled that role several times. His activities as jurist-in-residence include: holding jury trials at the school, allowing students to observe the trials, and meeting with students about various aspects of the profession. Also, Judge Rice has strongly supported the school’s moot court program over the years, particularly by presiding over many final round competitions in his courtroom. The significance of his contributions is reflected in the fact that the School of Law has chosen to name its annual intra-school competition the Honorable Walter H. Rice Moot Court Competition.⁵⁶

Another important and related law school contribution is Judge Rice’s past teaching of a course called “Judicial Roles: Leadership in Community.” This course explored the role of judges as leaders in their communities and how they can address important social issues that come before them within the constraints of their judicial function and without compromising the appearance of impartiality.⁵⁷

As I think about this man who is a “great role model for students,”⁵⁸ is “incredibly selfless,”⁵⁹ “has the courage to do something different,”⁶⁰ and is “a role model for many of us in terms of getting involved in the issues of the community that are tough issues,”⁶¹ I know my journey may never really end. I can never fully cover all he has done. In addition to what I have already mentioned, Judge Rice has contributed energy and vast amounts of time to so many other organizations and projects. These include the Greater Dayton Volunteer Lawyers Project, which provides civil legal services for indigent clients, the National Council of Ex-Offenders, which helps re-integrate ex-offenders into the community, and forums that promote dialogue between journalists, judges, prosecutors, and police officers. The judge also has future plans for a coordinated effort on the homeless. However, what the judge says he is proudest of are the jail cases in the late 1980’s and early 1990’s, during which he negotiated consent decrees with several county jails and the Dayton Workhouse. Ultimately, this forced the building of jails in several counties and improved the lot of prisoners.⁶²

My last stop is in federal court, where I, like others, was privileged to work for a brilliant jurist, a willing mentor, and a very compassionate

⁵⁵ Conte Interview, *supra* n. 50.

⁵⁶ *Id.*

⁵⁷ Kloppenberg Interview, *supra* n. 10.

⁵⁸ *Id.*

⁵⁹ Iseli Interview, *supra* n. 5.

⁶⁰ Mathews Interview, *supra* n. 9.

⁶¹ Tillson Interview, *supra* n. 18.

⁶² Rice Interview, *supra* n. 13.

and gracious man. These days, it is a bit harder to get into the courthouse, but after I pass through the metal detector and ride to the top floor, I walk into a courtroom that seems different, but is very much the same. Since the furniture is identical, down to the wooden table at the right of the bench where I took notes during trials, I realize the change must be one of perspective. Many years have passed, and I am on the other side of the bench, no longer privy to a judge's inner thoughts about the cases he handles or the weighty issues he must decide.

On this cloudy fall morning, lawyers are already in the courtroom, going over details on a case they have been trying to the judge for nearly a month. Cardboard boxes stuffed with exhibits line the walls. One man sits quietly at a computer, organizing his presentation. That's the way we do things today, and computer screens are everywhere. A court employee enters from chambers, turns on two huge globe lights near the bench, and makes sure all the tables have water. The stage is ready for another day of drama – sometimes more, sometimes less. The only constants are the exceptional intellect of the man who sits behind the bench, the thoughtful attention he gives each individual, and the compassion that underscores his acts. These traits are “in evidence” today as he spares time from his hectic schedule to discuss this article, listens patiently to a witness, and politely rules on objections during the trial.

As I leave the Federal Building, I am wondering, as someone has asked, how a community thanks its moral conscience.⁶³ The thought continues to puzzle me as I drive home from work on Interstate 675, once again marveling at the beauty of our world and the convenience of this highway, which lets me travel from downtown Dayton to my house in less than 20 minutes. I feel grateful as I glance at fields covered in hues of green spreading into yellow, gold blending into orange and rust, so many shades of color creating a feast for my eyes. I am thankful to see a black and white spotted horse grazing peacefully at a farm I pass each day. As I look around on this soft September day, I know the highway will be here when we are long gone. I know, too, that other legacies, less tangible, will also remain.

A few weeks ago, I asked Judge Rice what his epitaph would be, if he could choose. He replied: “It would be that I tried to do my best.”⁶⁴ As usual, he underestimates himself. Others say that:

In every generation there are a handful of people who shape a community. Two or three of the handful do it in a visible way. For the other one or two, they do it quietly and behind the scenes – their nature drives them to be quiet about what they do. I just feel I have been blessed to have

⁶³ Mathews Interview, *supra* n. 9.

⁶⁴ Rice Interview, *supra* n. 13.

known two or three of those who are shaping this generation. Judge Rice is one of those quiet ones and I'm honored to have known him.⁶⁵

Others say, "It's never about him; it's always about the issues,"⁶⁶ that he is a "valued diamond for our community,"⁶⁷ and that:

In everything he's ever touched, he's had an impact – whether it's in community activities or in the courtroom or in landmark decisions or in trying to find ways to reclaim people who are in his court rather than punish them, he's played a remarkable role. . . . I hope one day he would be aware of the contributions he's made in the judicial system as well as his volunteer opportunities.⁶⁸

Perhaps a fitting tribute might be that "whenever you say his name, I don't know of an individual who doesn't have some sense of reverence or respect,"⁶⁹ or that:

probably most every judge we know is respected because of the American judicial system, but this is a judge who is both respected and revered. . . . This is not just . . . [me] talking, this is lots of people who would tell you how the judge was involved with them on a personal basis – that's the terrific story.⁷⁰

I happen to know this terrific story is true and real because I heard it told with genuine admiration and affection. However, as I near the end of my journey, reflecting on Judge Rice's own words, and coming finally to the heart of this gifted and remarkable man, the only thing I can say is that he did not simply do his best – he *is* our best – and we are far, far richer for it.

⁶⁵ Iseli Interview, *supra* n. 5.

⁶⁶ Tillson Interview, *supra* n. 18.

⁶⁷ Harris Interview, *supra* n. 39.

⁶⁸ Mathews Interview, *supra* n. 9.

⁶⁹ Harris Interview, *supra* n. 39.

⁷⁰ Ponitz Interview, *supra* n. 1.