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Roger J. Miner
U.S. Circuit Judge

Retirement Dinner
Chief U.S. Probation Officer Frank T. Waterson
Jack's Restaurant
Friday, December 3, 1993
7:00 P.M.

Tonight there appears before you a man who has risen to the very heights of his profession through intelligence, hard work and devotion; a man who is so distinguished among his peers that no right-thinking person would dare say a word against him. But enough about me. I am here to talk about Frank Waterson -- and his mother. I could say that Frank is modest, humble and unassuming. I could say those things but they wouldn't be true. It is true, however, that you can go to any United States Probation Office in this nation and ask about Frank Waterson. You will always get the same answer: "Who the hell is Frank Waterson?"

We, of course, know who Frank Waterson is, because we have a Program that tells all about him on the back page. We know that we are here to honor him on his retirement and on his 75th birthday and that we all love him, more or less. He has served longer (and better) than any Chief U.S. Probation Officer in the Federal Judicial System, and there are people in his office who thought he would never leave. Generations have come and gone since he was appointed a probation officer in 1951. That was the year I graduated from high school. He became Chief Probation Officer in 1959, the year I was discharged from the Army and began to practice law.

According to the program, Frank was appointed by Chief Judge Steve Brennan, but it was our own Jim Foley, of blessed memory, who always claimed credit for the appointment. I spent a lot of time with Jim, and he told me time and time again how he found Frank when Frank was working as a Probation Officer in the old Albany County Childrens' Court. Foley lured Frank over here with the magnificent \$2,800 per year salary the job then paid. Frank had no secretary, and I think that he worked with one other person in covering the whole Northern District in the early days.

I will not say that Frank has been around a long time, but his social security number is written in Roman numerals. When he started out, the Dead Sea was only sick. But he has found the secret of youth -- he lies about his age. The only excitement he gets now is putting his cigar in a holder -- he doesn't smoke any more, see? His mother, whose advice Frank has conveyed to us on more than one occasion, told him not to play outside the fort. They were living in Fort Orange at the time. The Governor was a fellow named Dongan. But the years have been kind to Frank; it is the months and years in between that have knocked him to pieces. He now combines the wisdom of youth with the energy of old age.

When I first was appointed to the Northern District bench, Jim Foley told me to listen closely to what Frank had to say on sentencing. I don't know why Jim said that -- he never listened to Frank. Frank always complained that Foley found it very hard to send anybody to jail, and it was a big strain on Frank to try

to persuade him to do so. I did most of my sentencing on Friday mornings, and Frank would come in just before the court session to review with me the pre-sentence reports furnished earlier in the week. These sessions were very bizarre, Kafkaesque you might say. I think Frank saw these sessions as some kind of baseball game in which he was the pitcher and I was the catcher. I would say: "I think I will sentence the defendant to two years, with three years probation." Frank would shake his head from side to side like pitchers do when they don't like the catcher's signal. I kept throwing out proposed sentences until Frank found one that he liked and then he nodded his head up and down, approving the pitch. He would then write the sentence out on a piece of paper and give it to me to read from the bench. Just in case I might forget. Frank never had much confidence in judges.

It is, of course, well known that Frank does not like to delegate authority. For most of my four years as a Northern District Judge, I thought he worked alone. Only Frank came to see me at sentencing time. All the pre-sentence reports were signed by Frank, although I sometimes got fleeting glimpses of other names like Scott, Cunningham, Cosgrove and Watts. Frank referred to these people collectively as "the kid," as in "the kid did the interview in this case, Judge." I once went down to the probation office to see if Frank was really running a day care center. I was surprised to see full-grown people in his office. Frank also never let any of those people confer with a judge. This sometimes created a problem when one of the judges

in Syracuse scheduled a sentencing an hour after a sentencing here in Albany.

But the people who work for Frank love him. They say you can't help admiring him because if you don't, you're fired. And he loves them. Another government agency once asked him for a listing of the people in his office, broken down by age and sex. He reported as follows: "While some of our people think they are broken down by overwork, not one is broken down by age or sex." But Frank is a man who has it all together. If only he could find where he left it.

There are many people here who must be introduced to talk about our guest of honor, and I shall get right to it.

✓ (CHIEF JUDGE McAVOY) -- Mayor must know that Chief Judge always takes precedence -- even over politicians who have to leave to attend some other supposedly important event. A Chief Judge, of course, outranks a Mayor. He even outranks a District Judge, as you soon will see. I know you are waiting for a call from President Clinton, and I hope that it comes soon. It is a big thrill to get a call from the President. Hillary will dial the number. The Mayor has prior judicial experience. He was City Court Judge here in Albany. The last City Court Judge to be appointed to the Northern District was Edward Kampf. He lasted for two years. And now, after telling you all how important the position of Chief Judge is, it is my pleasure to present to you the Chief Judge of the United States District Court for the Northern District of New York -- Marlene Price.

✓ (MAYOR WHALEN) Tom Whalen once spoke at a political gathering at a farm out in the county. He spoke on the Democrat platform - - he stood on a manure spreader. When Tom Whalen became Mayor of Albany, many offices buildings in Downtown Albany were vacant, the snow was never plowed from the streets, and crime in the City was rampant. Now, some ten years later, many office buildings in Downtown Albany are vacant, the snow is never plowed and crime is rampant. But Albany now has an official song. And a sister city in Russia. I present the man who made this all possible, Mayor for a few more weeks, Tom Whalen.

✓ (DONALD L. CHAMLEE) I know that many here believe in capital punishment. They believe that everybody in the Capital should be punished. We have here a man who came all the way from the nation's Capital just to be with us tonight to honor Frank Waterson. This man is employed by the Administrative Office of the United States Court, an agency established in Washington, D.C. to pass papers around and to harass the people out here working in the Federal Courts. The AO people are what we used to call in the Army "headquarters troops." Seriously, the work they do is so important that I do not even know what it is. Recently, they moved into larger quarters to do this important work that I don't know about. From inside the Beltway, I present the Chief of Probation and Pretrial Services for the whole country, Donald L. Chamlee. (Say hello to Ralph Mecham)

✓ (SENIOR JUDGE NEAL P. McCURN) Judge McCurn was a great lawyer before becoming a great judge. Anyone who says that talk is cheap never hired him as a lawyer. He has presided at hundreds of personal injury cases. At one of these cases, a plaintiff testified that he fell from a loading platform and as a result was unable to have marital relations more than four times a week. McCurn said to the witness: "Where is that loading platform? I'd like to fall from it myself."

✓ (SENIOR JUDGE HOWARD G. MUNSON) Howard Munson was Chief Judge during my service on the Northern District Court, and a great one he was. In two weeks he will be coming to New York to sit on a Court of Appeals panel over which I shall preside. He says that he will review carefully the work of all the Northern District Judges. Howard once asked a defendant who would represent him and the defendant said: "God is my lawyer." Howard said: "You should have someone locally." When an 80-year old man who Howard had sentenced to twenty years, as recommended by Frank Waterson, protested that he was too old to serve out his time, Howard said: "Do as much as you can."

✓ (STEVE FLANDERS) Steven Flanders is our Circuit Executive. He performs many important functions for all the courts in our Circuit, so he says. He is an excellent administrator and a talented musician, if you can stand someone sawing away on a cello. He holds a Ph.D. and at some party a young lady told him of some symptoms and asked for medical advice. Steve said: "I am a doctor of philosophy, not a medical doctor." She said: "All right, what is the meaning of life?" Seriously, Steve is a modest guy, with a lot to be modest about. He is a great bureaucrat who sees no need for judges in the court system.

(GARY L. SHARPE) Gary Sharpe is the United States Attorney for the Northern District and the President soon will replace him with a law professor. That's politics, Gary. When I was a boy, I was told that anybody could be President. I now know that that is true. But don't worry, you can always get a job defending criminals. There certainly are plenty of them out there to defend. If Bush were re-elected, you would have been able to keep the job. Bush was some President. The other day I came across some profound words of his. He said, and this is true: "I have opinions of my own -- strong opinions -- but I don't always agree with them." Art Buchwald once said that Bush reminds every woman of her first husband. My wife knew Bush very well. She once took me to the White House to meet him. When the conversation turned to the Supreme Court, Bush picked up the phone and called an aide. He said: "What is the Supreme Court?"

(FRANK K. PEO) Frank Peo was appointed United States Marshal in the Northern District by Ronald Reagan. There was a President who knew what he was doing. He appointed us, didn't he? Frank has been involved in police work for most of his adult life. He once hurt his foot chasing a felon some years ago and complained to a physician about the injury. "What shall I do," Frank said. "Limp," said the doctor. Frank is a little out of shape now. He willed his body to science, but science is contesting the will. Frank now is fond of quoting Ben Franklin who said: "The first mistake in public business is getting into it."

(PAUL DeFELICE) Paul DeFelice is Deputy Chief U.S. Probation Officer in the Northern District. He has absolutely no interest in becoming Chief Probation Officer. He is not campaigning for it in any way. Perhaps he could be persuaded to take the job. Paul did a lot of work in putting this party together, and I would like to thank him on behalf of all concerned. He certainly is an effective and well-organized fellow, and he particularly wanted me to bring this fact to the attention of Chief Judge McAvoy. Paul actually has been preparing for the top job for many years and already, like Frank Waterson, is a legend in his own mind.

(TOAST) May you have long life and happiness and may your retirement years be filled with love and laughter.