

5-1-2010

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Recommended Citation

Deanell Reece Tacha, *Requiem for a Goldsmith*, 2010 BYU L. Rev. 353 (2010).

Available at: <https://digitalcommons.law.byu.edu/lawreview/vol2010/iss2/7>

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Requiem for a Goldsmith

*The Honorable Deanell Reece Tacha**

Michael Goldsmith was worthy of his name. He was dedicated to recognizing those endeavors in life that are of the greatest value and then bringing the full measure of his substantial intellect, energy, wit, emotion, and humane sensitivity to crafting, styling, and enhancing those endeavors in ways that rendered each of them far more valuable than he had found them. He was a goldsmith in the finest sense. He enriched my life and the lives of all he touched.

I had the privilege of serving with Michael Goldsmith on the United States Sentencing Commission from 1994 to 1998. I had known the strength of his reputation prior to our appointment to the Commission, but we met for the first time at my first Commission meeting. We became instant friends, as well as colleagues joined in a common cause. Michael viewed his service on the Sentencing Commission as a high calling, and this was arguably a loftier perspective than that held by many of the rest of us who have served! Michael was both a realist and an idealist, and for him, sentencing policy represented an opportunity to express both of these approaches to life. On the one hand, he was firmly rooted in the realism of the political process and the criminal justice system. His idealism, however, never wavered as he considered how sentencing reflects our commitment to equal justice under the law and to our continuing national and human quest to build a more just and humane society. This duality of purpose was evident in everything Michael Goldsmith did as a Sentencing Commissioner.

The two areas that, for me, demonstrate Michael's grounding in both realism and idealism in his work as a Commissioner were his extraordinary contributions to the debates related to the crack cocaine guidelines and the money laundering and white collar crimes guidelines. Though these guidelines frequently impact very different populations, Michael Goldsmith understood they had much in common. For him, both involved questions of equity and fairness. He understood powerfully the importance of these guidelines for the

* Circuit Judge, United States Court of Appeals for the Tenth Circuit.

communities affected by the crimes involved. He weighed with great accuracy and sensitivity the intellectual, political, and practical impact of every proposal and initiative. He insisted on studying as much data as possible before the Commission acted. He was a vigorous inquisitor at meetings and in hearings. After settling on his position, Michael was an almost irresistible advocate for his viewpoint because his thorough study and reliance on all available literature and data made his stance nearly unassailable. Although I am no expert on voting patterns during that period, my anecdotal memory suggests that his position prevailed more often than not!

One issue on which he (and I!) did not prevail was the Commission's crack cocaine recommendations. At a Commission meeting in 1995, a majority of the Commission voted precipitously, without much discussion, to recommend to Congress that the quantities for crack and powder cocaine be equalized—the so-called 1:1 ratio. Michael and I, along with Commissioner Julie Carnes,¹ knew that such a recommendation was wrong on political, practical, and policy grounds. We jointly dissented—insofar as I am aware—for the first and last time in Commission history. I shall never forget the agony that Michael felt in so publicly opposing our fellow Commissioners. He was a collegial professional, and the failure of the consensus model of decision making was difficult for him. Nonetheless, he, along with Commissioner Carnes and me, had to remain true to our best judgment. Above all, Michael warned that the majority's recommendation would impair the credibility of the Commission, and, more important, delay real progress on the continuing inequities of the crack/powder disparity in sentencing. He was right. He was courageous. He was prescient. In both cocaine sentencing and white collar crime, he saw on the horizon issues that would become ever more pressing in American criminal justice.

Professor Goldsmith and I talked often in the years following our service on the Commission. He was the consummate teacher. He cared deeply about his students. Others will write about his excellence as a faculty member and researcher, but I can attest that his concern for the well-being of individual students often was a topic of many conversations between us. He was clearly an advisor, confidante, and friend of his students—to say nothing of his

1. The Honorable Julie E. Carnes, Chief Judge, United States District Court for the Northern District of Georgia.

advocacy on their behalf for judicial clerkships!

By any measure, Michael Goldsmith placed the highest value in his life on his family. No matter how important the meeting, the hearing, the commitment, Michael would set anything aside to be sure that he was present in every way for his family. He crisscrossed the country countless times to be with his beloved children. His mother was an inspiration to him. The joy of remarriage brightened his life. The great reward of a close friendship is sharing first-hand these personal glimpses into the friend's life. I shared both high and low moments with Michael, and, in so doing, Michael, the goldsmith, added value and gave texture to my own life.

Finally, in his illness and death, Michael Goldsmith taught us all how to add great value to even the most lusterless of life's experiences. His national work and visibility on behalf of ALS research was relentless, effective, and a shining example of how he would identify endeavors of immense importance and then use his goldsmith's touch—even in his last days—to contribute greatly to their worth. So, to that ancient craftsman that endowed my friend, Michael Goldsmith, with his surname, I say you had a worthy son.

