

The Casper Star Tribune, July 17, 2013

COMMENTARY

Did Brimmer exercise the judicial standards?

With regards to the recent Associated Press article which ran in the Casper Star-Tribune, June 30, "U.S. District Judgment Clarence Brimmer retires at 90."

I was pleased to hear that "the grand old man of the Wyoming legal system, has retired."

From reading the article, one can only conclude that, while wielding the remarkable power of the United States of America, Brimmer has from the bench lead an esteemed career.

At the outset, and as anyone who has ever worked with me can attest, I have not once doubted Brimmer's veracity during his tenure on the bench. Hence, this letter should not be construed as a smear or an attempt to call into question any of the many accolades cited in the article. Indeed, as a Northern

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Arapaho (*Hinono'ei*) tribal member, I was taught never to disrespect my elders, even those of a different race. I certainly will not be engaging in any juvenile behavior like name-calling.

Instead, I can only speak to one particular instance during his undoubtedly long and stellar career that I find not as exemplary. It is worth noting that for some reason, the following facts were conspicuously omitted from the chronological timeline described in the article. A mere oversight by the writer, I'm sure.

First and foremost, some context is in order. Imagine that you had a flight that required the plane you were on to navigate through the

Rocky Mountains, a pretty mundane event for those of us who have ever flown. Next, imagine that after you had safely landed a fellow passenger came up to you and asked you what you thought about the pilots' professionalism during the flight, in particular conduct where a flight attendant discovered the pilot to be in a deep sleep while at the controls. Thankfully, in your case though, he or she was able to rouse the pilot from his slumber so that he could safely maneuver the plane around various mountain peaks.

Now, imagine that not so long ago you were an actual litigant who had for many tumultuous years struggled to bring a legitimate legal issue before what can only be described as one of the last bastions of fidelity, hope, and reason afforded to litigants in the legal system

of Wyoming, a federal court. Also consider that other than having a personal and significant stake in the outcome of the issue, its resolution has the potential to affect many other people and could quite possibly alter the government authority in a land area with significant tribal and federal interests. Needless to say, interest petulantly contested by the state of Wyoming.

Imagine that after the conclusion of the one and only hearing you would ever get to plead your case, your attorney reluctantly informed you that the judge hearing your case fell into a deep slumber throughout the opposing party's entire argument. And what is more, he remained that way for a substantial amount of time. In fact, because nobody, including my lawyer, ever made an objection, he wasn't awakened until court

personnel approached the bench under the guise of passing him a note.

Imagine if you will, going through the remainder of your life not knowing whether all of the relevant points pertaining to your legal claims were even considered by the judge who ultimately found for the opposing party.

Sadly, I don't have to imagine the perilous fiction just described, mainly because facts in previous judicial proceedings determined that I and my legal issues experienced it while in Brimmer's court. In a nutshell you can say that, for me, the legal landscape (in other words, the fictional mountain tops) was treacherously real with consequences I pray none of you ever have to face or consider.

From early on this nation's highest court has continuously opined the

federal government has "moral obligations of the highest responsibility and trust" to Native Americans and is, thus obligated to use "great care" in its transactions involving them. As a result, any federal action detrimental to their interests should be adjudicated through the use of "the most exacting fiduciary standards."

In conclusion, I ask you does the judicial mindset of these noble quotes from the U.S. Supreme Court deserve to be applied equally to all Native American litigants and their issues however inconvenient? Or are those principled quotes annoying pipe dreams forbidden in Wyoming? I guess I'll never know for sure. *Ha' Hou'* (thank you) for your time.

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