

Introduction

This book aims to tell the history of the U.S. Middle District Court of Florida, which stretches from the Georgia border, down the peninsula to the Gulf Coast. Created in 1962, the district includes thirty-five of Florida's sixty-seven counties and incorporates the huge population centers of Jacksonville, Orlando, Tampa, and Fort Myers. It contains roughly half of Florida's population of nearly 19 million. The Middle District is one of the busiest in the nation. Throughout its fifty-year history the district has been the scene of many important cases and legal developments in judicial history. Cases involving organized crime, civil rights, desegregation, redistricting, the First Amendment, employment discrimination, voters rights, kidnapping, the environment, death penalty, abortion rights, the right to die, terrorism, arms trafficking, espionage, and a whole host of other types of cases have been litigated in its courtrooms.

Middle District courtrooms were the stage for numerous scenes of drama: In 1963 in Jacksonville Judge Bryan Simpson considered Martin Luther King Jr.'s, Andrew Young's and the NAACP's right to march in St. Augustine, and subsequently ordered Gov. C. Farris Bryant into his courtroom to show cause why he shouldn't be held in contempt. In 1970 in Tampa Judge Ben Krentzman ordered Gov. Claude Kirk Jr. fined \$10,000 for every day he failed to comply with a court order mandating the desegregation of the Manatee County Public Schools. Less dramatic, but perhaps more important, the Middle District served as the place where individual counties trod their long, often tedious path toward desegregation. From its inception in 1962 Middle District judges adjudicated the individual facts, circumstances, and conditions of each county within the context of circuit court and Supreme Court decisions. Prominent civil rights lawyers such as Thurgood Marshall, Constance Baker Motley, William Kunstler, Drew S. Days, Tobias Simon, and William Sheppard practiced their craft in Middle District courtrooms.

In the early 1970s Middle District judges presided over cases involving corruption allegations of a U.S. senator, and in 1973 the court was one of the first to arraign an operative in the unfolding Watergate saga. In the 1980s Florida became ground zero for the nation's war on drugs. Some of the first successful drug prosecutions came through the Middle District of Florida. Carlos Lehder was only the most notorious of these. Mobsters like Santo Trafficante and Harlan Blackburn were prosecuted in Middle Florida courtrooms, as were members of the gang known as the "Goodfellas." Even before the Supreme Court voided over six hundred death sentence convictions in its landmark case *Furman v. Georgia* (1972), one Middle District judge in 1967 had issued a moratorium on Florida executions on many of the same grounds—a ruling thought to be the first of its kind in the United States. After the restoration of the death penalty as a result of a 1982 case originating in its own courts, the district would eventually become one of the nation's leaders in handling postconviction *habeas corpus* petitions of death row inmates. Not all important activities took place in courtrooms. In the 1980s, for example, during a quiet lunch, an overly zealous, newly appointed U.S. attorney, who acquired the nickname "Mad Dog," audaciously tried to extract a promise from two district judges to sentence convicted defendants to maximums allowed by law.

The Middle District of Florida was also the scene of some of the nation's first successful racketeer and fraud prosecutions: Glenn Turner, the McCorkles, and the Bank of Credit & Commerce International prosecutions are cases in point. Finally, names and subjects as diverse as Manuel Noriega, Denny McLain, Wesley Snipes, Ted Bundy, Terri Schiavo, Sami Al-Arian, hanging chads, and Baby Sabrina immediately bring to mind important if not sensational incidents in the Middle District's, as well as America's, recent history.

The Middle District has also been the scene of some of the most important commercial litigation in the United States. From the rising commercial centers of Jacksonville, Tampa, Orlando, and Fort Myers, many complicated disputes emerged. The district's courts also adjudicated numerous disputes arising from army and naval bases in Jacksonville, Orlando, and Tampa, as well as the Kennedy Space Center at Cape Canaveral. Economists have noted that Florida is often at the extreme ends of boom and bust cycles of the U.S. economy. The district's bankruptcy docket became one of the most crowded in the nation, and its bankruptcy bench is recognized as one of the most distinguished in the nation. One of its judges, the late Alexander Paskay, it can be argued, did more to shape the laws and

practice of bankruptcy than any other individual in the United States. But Judge Paskay was as dedicated to upholding his duties as a judge as he was to writing, lecturing, and teaching on the subject. In one instance, during a particularly critical time, Judge Paskay held court in his hospital room, signing documents and delivering last-minute instructions to law clerks ten minutes before he was wheeled into surgery.

Thus, over its fifty years Middle District judges have made many important decisions that shaped the law and affected thousands of lives in fundamental ways. Any number of these important cases could provide interesting popular or academic studies in the future. Perhaps this book may contribute to that effort.

For those who spend any time with members of the federal court establishment, the phrase “court family” is often heard. Members of the family are not only judges; they are the clerks, and numerous agents, staff, attorneys, and other officers who are essential for the courts to function properly. Middle District Judge Elizabeth Kovachevich often uses the word “teamwork” and is quick to acknowledge how critical staff is to the operation of judicial business. On one occasion she note of her law clerks, office manager, court reporters, judicial assistants, and bailiff, “I couldn’t be doing this job without their dedication. There was no such thing as the hours of the day, seven days a week. . . . You can’t get the job done without the team.”¹ Judge Kovachevich’s comments on the importance of teamwork ring true for nearly every division, bureau, or department within the Middle District of Florida.

I am not a lawyer but a historian of Florida and southern history whose previous work has touched upon such subjects as crime and punishment, the courts, and law enforcement. This book, while certainly informative to legal scholars, is not intended as an academic legal treatise.

This book will address in narrative fashion these dramatic personages and will also shed light on lesser known but equally important subjects and individuals. The lives, times, and work of the district judges, magistrates, and bankruptcy judges are included in these pages. So are prosecutors, marshals, attorneys, and the many other dedicated professionals who made the Middle District of Florida function from its inception in 1962 to the present. Their collective story is the subject of this book.

Perhaps an obvious question is why is a study of one individual U.S. district court pertinent? What can be gained from pursuing such a study? One answer is that such a study can offer us a window into the political, social, economic, and legal history of a district over time. It can tell us how

federal governmental disputes were adjudicated. But more than that, as legal scholar Kevin Lyles tells us, U.S. District Courts are unique in the federal judiciary apparatus. They are the “key determinants in deciding ‘who gets what, when and how’ from federal judicial policymaking.” Lyles called district courts the

workhorses of the federal judiciary. . . . They are the only courts in the federal system where the litigants meet in open combat, where witnesses are heard, where the “facts are determined,” and where juries are used. District courts not only interpret and apply Supreme Court decisions to the large numbers of cases that the Supreme Court cannot possibly address, but also implement the decisions made by the higher Court. In addition, given the broad formulations and resulting ambiguity that characterize most higher court rulings, especially those of the Supreme Court, the more numerous district court judges are given considerable leeway and opportunity to interpret and apply higher court decisions to many cases, most of which are disposed of in these lower courts.²

Thus the power of the judges and the federal courts are enormous. According to one authority, “cases they hear involve the violation of federal laws, suits in which the U.S. is a party, or issues where there is a federal constitutional question. . . . In many ways a district judge, as a trial judge, is more powerful than the appellate courts above him—the Circuit Courts of Appeals and the Supreme Court. With few exceptions, the higher courts can only pass on questions that a district judge has already ruled on; and the overwhelming majority of District Court decisions are not appealed.” Moreover, district judges “through their rulings . . . establish policy on a vast range of legal and social issues. They operate in a zone of tension between traditional legal standards and changing public values,” especially when a “vital question finds its way to a federal court.”³

Anyone who steps into a federal courtroom immediately notices a difference. “There’s a cleanness about it,” according to one commentator, “a sense of fairness. . . . There’s an atmosphere of trust and dignity.” As one person who frequently visited the federal court in Jacksonville during the 1960s noted, “you immediately realize that you are in the presence of the majestic dignity of the United States, whether it is to witness the naturalization of new Americans or observe a contest between a defendant at the bar and the law enforcement arm of the government.”⁴ U.S. District Judge Howell W. Melton, after more than two generations on both the state and

federal benches, has observed that lawyers treat one another more civilly and generally behave better in federal court than in state court.

I find that in the federal court, I don't know the reason why, but having been a state judge and a federal judge, I find that the attorneys are much more civil to each other in the federal court than they were in state court. For some reason, the attorneys have always been more impressed with being in federal court than in state court. For what reason, I don't know, but there has been that feeling. I think there has been a little more feeling of awe to be in federal court than in state court; although there shouldn't because we have a fine state court system.⁵

While U.S. district judges of the Middle District of Florida have been appointed by every president since John Kennedy, the district enjoys a particularly good reputation for the impartiality of its judges. As U.S. District Judge Richard Lazzara explained,

I always find it interesting when people are talking about a particular case and the judge hearing the case, and they always say, well, this judge was a Bush appointee or a Clinton appointee or an Obama appointee, etcetera. . . . As if to say, that tells you how this judge is going to decide the case. . . . I'm always puzzled by that. . . . The facts are the facts and the law is the law, and that's the way you're going to have to decide it. I don't care whether you're an Independent, whether you belong to the Tea Party, whether you're conservative, liberal, Republican, Democrat, I don't care who you are. Once you put on that robe, the facts are the facts, the law is the law; and that's how you decide it, whether you like the law or not. . . . The judges on this court were appointed by presidents who range the political spectrum, if you will, from conservative, to middle-of-the-road, to liberal. But I don't see any difference in our judicial philosophy. . . . I don't know of any judge who's decided a case based on by whom they were appointed, by whether they were appointed by a Republican or Democrat.⁶

I have consulted many of the original cases that are contained within these pages. Original Middle District case files are housed in the National Archives Record Center and comprise nearly five thousand cubic feet. It would take a lifetime to examine each individual case. All of the important cases originating in the Middle District of Florida are available online on Westlaw, Lexis-Nexis, and other databases. The major sources used are oral

histories, public documents, numerous secondary sources, and particularly newspapers. Fortunately, for the years of this study, Florida's major newspapers assigned skilled reporters to cover the federal courts' inner workings as well as important cases. And also fortunately, much of this fine reporting is available in online newspaper databases. I am indebted to many reporters who systematically covered cases and issues concerning the courts; where available, their bylines are included in the notes.

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