

## THE EARLY YEARS

*Roy D. Campbell III\**

I had the great, good fortune of practicing law with Jimmy in Greenville from 1975 until approximately 1981, with the firm then known as Campbell, DeLong, Robertson, Hagwood & Wade.<sup>1</sup> In many respects, those were Jimmy's salad days, a time in his mid to late thirties when his hair remained mostly red and he finally seemed to accept that he was not going to play third base for his beloved Boston Red Sox.

More than forty years have passed since our time together, and in the years since, I have never seen his equal in sheer vitality and stamina. As if it were yesterday, I recall him in his office furiously editing briefs (with various multi-colored, felt-tip pens) in the wide margins of those sheets of perforated paper birthed from mag card typewriters, repeatedly reaching into a tin of King Leo peppermints for bursts of energy. And despite having been at it since 6 a.m., twelve hours later he would be at the Greenville High School quarter-mile track happily slogging through his regimented, daily sixteen laps.

I regret that the passage of time has dimmed my memory of many of the displays of Jimmy's uncommon brilliance, his extraordinary contributions to the law, and the numerous acts of

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\* Although now living in New Canaan, Connecticut, with my wife and near my three daughters and their families, I spent most of my life and law practice in Mississippi. I graduated from Greenville High School in 1968, from Davidson College in 1972 and from the University of Mississippi Law School in 1975. I practiced law in Greenville with the firm presently known as Campbell DeLong LLP from 1975 until 1998 when my wife and I moved to Nashville, Tennessee. I joined the Jackson, Mississippi office of the firm presently known as Bradley Arant Boult Cummings LLP in 2003 and was a partner in that firm until 2025, when my wife and I moved to Connecticut. My practice consisted primarily of insurance coverage and commercial litigation. I am a Fellow of the American College of Trial Lawyers and a past president of the Mississippi Bar. I am indebted for assistance with this article to my brother-in-law and former law partner, Claude L. Stuart III, Esq. and to my life-long friend, Peyton D. Prospere, Esq.

<sup>1</sup> When Jimmy joined in 1965, the firm was Keady, Campbell and DeLong. The years later, William C. McKeady, the senior partner of the firm, became one of two judges on the United States District Court for the Northern District of Mississippi.

kindness to his fellow citizens during his years in Greenville. I offer here, in no particular order, three that remain.

#### UNSELFISH DEVOTION

In the late 1960's, when the senior partner in Jimmy's law firm was president of the school board of the Greenville public schools, the school board adopted a plan to facilitate integration by consolidating the former all-white and all-Black high schools.<sup>2</sup> The resulting outcry of opposition included a volatile confrontation at a school board meeting by angry parents and students from both schools. One student, Walter "Super Cool" Leonard, was sufficiently exercised that he threatened to burn down the newly consolidated high school.

Several years later, Super Cool pled guilty in the Circuit Court of Washington County to separate crimes of forgery and uttering a forgery, and he was sentenced to two years imprisonment for each. However, execution of those four-year sentences was suspended and he was placed on probation. Less than a year later, Super Cool found himself back in the same court at a probation revocation hearing for, among other allegations, being an accessory to murder. He was promptly found guilty of violating his probation and, in revoking his probation, the court set aside his original four-year sentences and imposed greater sentences, totaling twenty years. Unable to afford counsel, Super Cool petitioned for court-appointed counsel to contest the imposition of sentences greater than the original four years for which his probation was revoked. The court granted his petition and, consistent with how his luck was trending, the court appointed the former school board president and his younger partner, Jimmy.

At that time, no clear law existed in Mississippi permitting or prohibiting the imposition of a harsher sentence under those circumstances, but in its brief, the Attorney General cited a New Jersey Supreme Court decision that interpreted that state's practically identical statute to permit it. Digging deeper, Jimmy found a 1943 SCOTUS opinion and a 1970 Kentucky Supreme

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<sup>2</sup> The senior partner then was Roy D. Campbell, Jr., father of the author, whom Jimmy referenced in a footnote as the inspiration for his 1983 Mississippi Law Journal article "The Lawyer as Hero."

Court decision that persuaded the Mississippi Supreme Court that Super Cool's original sentence of only four years must be reinstated. In writing for a unanimous court Justice Broom lauded the "most excellent brief" that led to that result.<sup>3</sup> That exhaustive effort was typical of Jimmy's unselfish devotion to his client's cause, regardless of controversy or compensation.

#### LOVE OF ADMIRALTY AND THE RIVER

During the time Jimmy practiced in Greenville, multiple tow boat companies were headquartered there, and admiralty cases filled the docket of the Southern District of the United States District Court's Delta Division, which was located in Greenville. As a result, Jimmy was involved in a broad range of maritime litigation, including contract breaches, insurance coverage disputes, loan defaults, and Jones Act and Longshore and Harbor Workers' Compensation Act claims. Those cases had an outsized influence on his brilliant lectures on admiralty jurisdiction during his years on the faculty at the University of Mississippi School of Law from 1977 to 1992.

One of those jurisdictional disputes was a non-traditional maritime tort case involving a shoot-out on the Mississippi River between poachers and the caretaker of a hunting club. Likely inspired by a colorfully worded brief from Jimmy, writing for the Fifth Circuit Judge Godbold described the encounter thusly:

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<sup>3</sup> Leonard v. State, 271 So. 2d 445, 446 (Miss. 1973)

This case arises from a mini ship-to-shore gun battle in the Mississippi River. The vessel, no ship of the line, is a 15-foot outboard boat. The combatants are irregular forces, fleeing deer poachers afloat and outraged defenders of a private hunting preserve ashore. The armament, rather than coastal batteries and carronades on the gun deck, consists of hunting rifles. The forces encountered one another as the result of actual, though unintended, aerial reconnaissance. The engagement commenced with solid shot—from a rifle—fired from shore across the bow of the boat to signal it to stop. It continued on course. The gunners ashore lowered their elevation and fired into the water beside the boat. The boat continued in flight at full speed ahead, and the next rounds were fired into the boat, holing the boat and wounding the man at the tiller, who was the senior man on board, and another. The force afloat, having suffered these serious casualties, dispatched a few rounds shoreward, broke off the engagement and retired from the scene in disarray.<sup>4</sup>

The wounded poachers in the boat sued the “gunners ashore” several years after the skirmish and, to avoid Mississippi’s assault and battery one-year statute of limitations, the poacher-plaintiffs invoked admiralty’s equitable doctrine of laches, claiming that the locality of the tort on navigable waters was, alone, sufficient for admiralty jurisdiction.<sup>5</sup> Although this strict “locality” rule had been followed perfunctorily by most courts for almost one hundred years, armed with a recent SCOTUS decision Jimmy persuaded the Fifth Circuit that, in addition to maritime locality, the wrong must also bear a significant relationship to traditional maritime activity.<sup>6</sup> Unfortunately for Jimmy and the “gunners ashore,” the circumstances of the encounter were found sufficient to satisfy the maritime activity factors and the trial court’s verdict for the plaintiffs was affirmed.<sup>7</sup>

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<sup>4</sup> Kelly v. Smith, 485 F.2d 520, 521 (5th Cir. 1973), abrogated by Jerome B. Grubart, Inc. v. Great Lakes Dredge & Dock Co., 513 U.S. 527 (1995).

<sup>5</sup> *Id.* at 523.

<sup>6</sup> *Id.* at 523-24 (citing Exec. Jet Aviation, Inc. v. City of Cleveland, 448 F.2d 151 (5th Cir. 1971)).

<sup>7</sup> *Id.* at 525-26.

All was not lost, as for many years, *Kelly v. Smith* provided Jimmy with colorful facts for teaching the nuances of the “locality plus” doctrine of admiralty jurisdiction.<sup>8</sup>

#### BRILLIANCE

An example of Jimmy’s brilliant mind relates to one of the few areas of the law in which he never actively practiced, bankruptcy. A bit of background is necessary.

In 1978, Congress enacted the Bankruptcy Reform Act of 1978, replacing the former Bankruptcy Act of 1898 and radically altering bankruptcy law.<sup>9</sup> Creating bankruptcy courts separate from United States district courts, the law allowed the President to appoint judges for terms of fourteen years, allowed their removal by a council of the circuit in which they served, and subjected their salaries to adjustment.<sup>10</sup> In spite of those limitations bankruptcy courts were endowed with essentially all powers of courts of law and equity.

As often occurs after Congress enacts major reform legislation, seminars were held across the country to assist bankruptcy practitioners understand the vast changes wrought by the Bankruptcy Reform Act. One such seminar was to be held in New Orleans and, to his considerable surprise, Jimmy was invited to attend and address the constitutionality of the Act; specifically, he was invited to address whether conferring Article III powers on judges who lacked the career protections and political independence of Article III judges was permissible. Flattered, relieved that no paper was required, many months away from the seminar date with ample opportunity to fully prepare, and certainly motivated by two

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<sup>8</sup> *Kelly v. Smith* may well have been the inception of Jimmy’s fascination with navigable waterways, especially their effect on Mississippi’s boundaries. Nowhere is that fascination more evident than in his recently published book, *Rowdy Boundaries—True Mississippi Tales from Natchez to Noxubee* (University Press of Mississippi 2023). In Section 2, entitled “The Mighty Mississippi as Meandering Boundary,” Jimmy explains the little known (and less appreciated) distinction between avulsions and accretions and their disparate effects on boundaries: an avulsion, caused when the river suddenly changes course by slicing through a land mass, leaves the boundary lines unchanged; accretions on the other hand, created slowly over time as the river gradually migrates, adding land on one side and flooding it on the other, moves the boundary with the river.

<sup>9</sup> See generally Bankruptcy Reform Act of 1978, Pub. L. No. 95–598, § 152-153, 92 Stat 2549.

<sup>10</sup> *Id.* at § 152-153.

nights' complimentary lodging and meals in New Orleans, Jimmy gladly accepted the invitation.

This was in approximately 1980 or 1981. Jimmy was extremely busy, and he relegated preparation for the bankruptcy seminar to a place of minor importance in his schedule. Months passed and nothing was done. Jimmy was finally stirred into action when, around noon one day, his secretary reminded him that he was to be in New Orleans to deliver that talk at 9 a.m. the following morning. He grabbed a copy of the federal code and enlisted a young associate to read the code provisions while he drove the five hours from Greenville to New Orleans.

Jimmy's performance at the seminar was a *tour de force*. With essentially no notes or supporting research, over the course of an hour he took the audience through the jurisdictional conflicts created by 12 U.S.C. § 1471 with Article III of the U.S. Constitution, explaining the breadth of subject matter jurisdiction bestowed on bankruptcy judges by that section, the historical context of an impartial and independent judiciary designed by the framers of the Constitution, the checks and balances among the three branches of government, and how at odds the Act's grant of powers was with Article III's protections. The audience had no idea that twenty-four hours earlier Jimmy had never read the Bankruptcy Act of 1978. The associate, who had spent the trip to New Orleans familiarizing Jimmy with the Act and was seated in the back of the convention hall, was incredulous, and remains so today. The following year, the U.S. Supreme Court held the Act's broad grant of jurisdiction to bankruptcy judges unconstitutional for many of the reasons discussed by Jimmy.<sup>11</sup>

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<sup>11</sup> See generally *N. Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982).