INTERVIEW WITH JUDGE BOB A. SMITH
FEBRUARY 25, 2009

KEK: Hi, this is Karen Kalnins, I’m a reference librarian at the Oklahoma City University Law Library and today is Wednesday, February 25th 2009, and I am here with Judge Bob A. Smith in, I guess it is considered El Reno, Oklahoma…..

BAS: Concho

KEK: Concho, okay the city is actually called Concho, Concho, Oklahoma. We’re in the actual, the Cheyenne Arapaho Nation today, here in Oklahoma. And I will be interviewing Judge Smith as part of the oral history project that the Oklahoma City University Law Library is sponsoring. As a part of that project the library is interviewing attorneys and judges throughout the state of Oklahoma. So, welcome Judge Smith.

BAS: Thank you very much.

KEK: Thank you, thank you for agreeing to this interview. And, what drew you to the law Judge Smith?

BAS: What?

KEK: What drew you to the law originally?

BAS: Well, originally I completed schooling at Stillwater on the GI Bill because I was in the Korean conflict. And I came back and I had qualified for the GI Bill. After I graduated I still had GI Bill funds remaining so I enrolled in law school.

KEK: Very interesting. And where did you enroll?

BAS: Oklahoma City University. And, it was different in those days. My first semester was downtown Oklahoma City and then the next semester we moved to Oklahoma City University campus. And, as I recall, we were in temporary buildings at that time or a building because the classes were not that large.

KEK: And what made you decide to enroll at Oklahoma City University Law School?

BAS: Well at the same time I had been accepted into the federal government on a training program and, it was close and I was employed at Tinker Air Force Base and it just worked out real well for me. And also, I suppose the main reason is that it was only, OCU only provided night classes at that time and everyone had a day job and we attended classes at night, there was no day school.
**KEK:** Very interesting. And what year did you enroll at OCU?

**BAS:** I graduated in ’60 and it took four years so…..

**KEK:** Okay, so probably if you graduated in ’60, it was probably ’56.

**BAS:** ’56, that’s correct. In fact, you’re exactly right because that’s the year I also married. Yeah, it was 1956.

**KEK:** So, ’56 was a big year for you, you married and you started law school. And tell me about your experience at OCU. You said your first year was downtown but then you moved to the campus.

**BAS:** Right.

**KEK:** Tell me about your classmates and your professors there.

**BAS:** The make-up of the student body was very different in those days. For instance, there were no African-Americans enrolled in our school. There were two women in the entire school. One of them dropped out to get married. The other one, it was very interesting, and she only recently passed away, she was a legal secretary out at the State Capitol and she and some others were admitted as special students. She was a very good student and since I had started at an odd time, I was involved in study groups with the class that was ahead of me. She, after she had finished the course with the rest of us at the same time, after she finished she petitioned the bar association to take the bar. She said, “I have done everything that these other people have done and they have degrees I don’t have but I have taken the bar, I’ve passed it, I want to be admitted to the bar.” It was my understanding she was turned down. She petitioned the Supreme Court. The Supreme Court said, “Let her be admitted as an attorney.” And so she was, she was sworn in at the same time. And they said, this is going to be the last. But to go back, the people that I studied with, the bar association decided that too many people were passing the bar. So, when they took the bar exam, all of them, in my group, except one flunked.

**KEK:** You’re kidding.

**BAS:** So, when it came my turn to take the bar and in those days it was three days. When it was my turn to take the bar it scared me because I knew the capabilities of these students who had not passed the bar. And I didn’t take a bar review course, I’m not sure that there that many around but I took Clark’s Summary of American Law. And I took a leave of absence for two weeks. I started reading Clark’s Summary of American Law and I would read two chapters and then the next day I would re-read that and pick up two more. By the time I had finished I had gone through Clark’s Summary many, many times. And then we took the bar, as I said it was three days, and the first day came a snowstorm. But we survived and one attorney had a typewriter, a portable typewriter, and he took the exam on this typewriter and I will always remember hearing
those keys clacking. And the rest of us are writing like mad because we were writing in bluebooks as I recall. So, after that, now we were talking about the make-up of the students, this woman, she was admitted, she got her license to practice law, and years later I’m sad to say, she went to federal prison. And it was over a nursing home scandal and a lot of people think that she may have taken the fall for her father who was rather elderly but who knows. But she was an outstanding person but she was the only woman at that time. When we took the bar, your notification came out in the Sunday Oklahoman that was the first notification. I had a call on Saturday afternoon because the paper comes out early edition and this friend of mine is K.O. Rayburn, he was with the Highway Patrol, very outstanding person, he called and told me, “We passed, we passed.” I said, “Are you sure?” He said, “Yes, it’s in black and white.” There was another person, now some of the people didn’t pass, like one friend was an Assistant County Attorney in those days and of course when he didn’t pass his job was gone. He took it and he passed it the next time. When it was time for us to be sworn in I met this man, E. Melvin Porter, Melvin Porter was a black person. He had graduated from Tulane and his name was not in the Sunday edition and he couldn’t believe it but, it was just a mistake by the editors of the paper because he had passed. So, we were sworn in together and throughout the years when I had contact with him I always remembered that. But as I recall, he was the only black person who was sworn in at the same time the rest of us were.

KEK: And then the other, do you remember the woman’s name, the woman?

BAS: Certainly.

KEK: And what was her name?

BAS: I’m not sure I should give it to you but her name was…..

KEK: Well, if you don’t feel comfortable giving it to me that’s fine. It’s up to you.

BAS: I think that due to the circumstances I probably should not. But no, I remember her name because she was really an outstanding person. And she only passed away within the past year.

KEK: Well, yeah, the circumstances of her just sound incredible. It’s just sorry to hear you know what kind of happened later on in her career.

BAS: Right. But you know before my generation attorneys didn’t necessarily go to law school. They read the law in some attorney’s office and they started practicing. So, times have changed.

KEK: Times have certainly changed. What do you think about that, about that change that the previous generation before you went to law school, where they weren’t required to get a degree, do you think it’s better that they, that an attorney actually go……
**BAS:** Well, the ones that I met I was very impressed with because they were qualified, they became judges. And there was a school, if any of them went to school; it was usually to a school named Cumberland. Have you ever heard of Cumberland?

**KEK:** No.

**BAS:** Cumberland was a school, if they went to law school, and I recall it was in Missouri. But if they went to law school it was Cumberland. Otherwise, they read the law and they became attorneys and most of them you know, to have done that, they were outstanding people, they were outstanding attorneys, they became judges, they were outstanding judges.

**KEK:** Do you remember any of the professors at Oklahoma City University Law School at that time or did any of them stick out in your mind?

**BAS:** Yes, there was one man whose name was Jack Sheehan and of course he, most of these people are no longer with us, but he was the type of person that scared me you know, when he would ask a question. In fact, I had a dream one night and he was a professor from first year downtown and my dream was that I had not answered the question correctly and he called me up and we were on the second floor and he dropped me out the window because I didn’t answer the question. He was outstanding. There was another professor by the name of Bert Grubb, G-R-U-B-B, and I can always remember that he said, “Alienation of affections does not exist.” And of course we couldn’t understand that and later on I found out that, I learned that he had been involved in an alienation of affection suit. The dean of the law school was Ted Foster, very good man and I always remember him as low-key, but really an outstanding individual. There were no women professors.

**KEK:** Very interesting. And, then you graduated, when did you graduate?

**BAS:** 1960 from law school.

**KEK:** And did you graduate in the winter or in the spring?

**BAS:** I graduated in the winter.

**KEK:** I guess that would make sense because you said the first day of your bar exam there was a snowstorm. Now you said while you were going to law school you also worked at Tinker Air Force Base. What did you do out at Tinker?

**BAS:** I was in, as I said, I was in a management program. They had men and women, young people out of college and they put us in this program to become supervisors in different areas. While there, after a couple of years, FAA, Federal Aviation Administration, was just beginning to bloom. And it started across town and I had a chance to transfer to the Federal Aviation Administration and I did. And I was with the federal government for 32 ½ years and while there,
I had an opportunity to apply to go to an eastern university. And the idea was that the
government would select 20 individuals throughout the United States, send them to a school, a
graduate school. One of the conditions, the person had to leave his geographic area when the
training was completed, go to a new area, and you had to move out of your specialty meaning
that from specialists these people were made generalists. I was fortunate to go to Syracuse
University and I was in the Maxwell Graduate, Maxwell Graduate School. All expenses were
paid, I took my family. By this time we had three children and we moved to Syracuse. We lived
in college housing. My children were starting school, they attended school in Syracuse. We’ve
always been church going people; we moved our membership to Syracuse, to a Baptist church
there. From there we went to Washington, D.C. and I had an assignment there and I was only
there for a year. We bought a home in Virginia and then I got a call to come back to Oklahoma
City, different position. And we did and so we came back from Virginia, I worked out in the
District and in Virginia, but then I came back to Oklahoma. We then were there for five years. It
seemed like every place I went we were there five years. I got a chance to be interviewed and in
fact I met my future boss in Denver, he met me halfway for an interview in the airport and when
I got off the plane when I returned to Oklahoma City my wife said, “You got the job didn’t
you?” I said, “I have no idea.” She said, “I can tell you did.” And sure enough I did and then
we moved to Seattle and by this time we had four children because we lived in Virginia and had
our last one and we were there and really enjoyed the Seattle area. We lived in Issaquah which is
an outskirt, bedroom community for Seattle. We lived on a mountain and my son was interested
in horses so we found a place where we could keep his horse. We liked the rain and it was so
different. If you wanted to mow your lawn and it was misting out, you still mowed your lawn
otherwise you would never get the law mowed. We were there for five years and I had an
opportunity to transfer to the Fort Worth area and I was there and all of these places where we
lived we bought houses and then we sold. And then we moved to Texas well, we wanted a
swimming pool and had to have a place to accommodate horses so we did that. And I was there
and while we were gone, when we had come back from Virginia we built a new home in
McClain County, we had property out in the country and we got to stay in it about a year before
we moved to Seattle. But while we were gone we only had three tenants, I think we were gone
for seven years before my wife moved back and during all that time only three tenants. And the
last one was obviously a drug dealer because he paid in cash and my son came up and he brought
back to Texas a cardboard barrel and he called me out and said, “Dad, have you ever seen
marijuana?” And I said, “Yes, I have.” He dumped this out on the driveway and it was residue
from marijuana. After that my wife says to me, “We’re going to have to either sell or I’m going
to have to move back to Oklahoma to take care of our property.”

**KEK:** Because you were concerned at that point about this tenant that had been living there and
dealing drugs.
BAS: Right, so, what happened then was she moved back with two of the children. My oldest daughter was at OU and my oldest son stayed and graduated at Grapevine High School and he of course came to Oklahoma. So, they came back and we sold our home in Grapevine, Texas and I took an apartment across from the college there. And I commuted for 26 months and only missed one weekend, and that was due to the weather. I would leave work on Friday and I would be back at Meacham Field by 7:30 on Monday morning.

KEK: Wow.

BAS: And, I was there five years and then my final job was manager of the airports, District Officer at Wiley Post Airport. And then from there, after 32½ years, I retired and had a law practice going. I retired on Friday, I reported to the law office on Monday.

KEK: Now, all this time, you said you had been working these 32 years for the FAA, the Federal Aviation Administration, how did you get to use your law degree while you were working for the FAA?

BAS: Often it was quasi. For instance, my final years were in airport development and we pay, we buy a ticket, we pay a certain fee, that goes into a trust fund. This trust fund then is used to improve runways, to procure land for expansion of the airport. One of the requirements is that if you take money from us, from the government, you’re going to have to treat everybody equally. So, this was important and we managed the funding and to assure that the money is spent for what it’s supposed to be and that you don’t discriminate against someone that wants to establish a fixed-base operation. For instance, somebody that takes care of small aircraft and we had this problem in Texas. This was part of it-reviewing contracts, buying land, we bought the land and we always bought the mineral interests with it also. So, it was required that we be sure that everything, that we could get title to this because if a runway is going to expand they often have to buy out homes that are there. So, this was a big part of our operation.

KEK: So, you were able to kind of use your law degree there?

BAS: Yes, yes, very much so. But I was fortunate, I had good breaks as time went on.

KEK: What kind of a graduate degree did you get in Syracuse?

BAS: I got a degree in Political Science. While I was drafted during the Korean Conflict after completing basic training and another training session I was certain I would be going to Korea and fighting was going on at that time. I got an assignment to France and that’s where I spent my career was in France. And I traveled over there. The highest rank that I had was Corporal and we weren’t paid very much in those days but we were able to travel first class on a train with what we made. We were able to eat on the Champs de Elyse in the finest restaurants. The meal usually cost a million Francs which was less than ten dollars in American money so it was a
great experience. And then to be able to take leave to travel to Spain, Germany, England, it was a fantastic time and again, it was a very satisfying experience. And all of this is of course before I even finished my degree at OSU because I had been there two years and everybody was being drafted or they were volunteering for service and I dropped out of school and worked at an aircraft factory in Fort Worth for two years before I was officially drafted.

KEK: Interesting, so you weren’t actually enrolled at the time that you were drafted?

BAS: No, and I came back from France and I got an early out, like several months, a couple of months because I got accepted to go back to A and M at that time, Oklahoma State, so I didn’t have to serve my entire two years because of this being able to get back and get in school.

KEK: Lucky you.

BAS: Right.

KEK: How do you think your military service informed your later life or at least informed you, you know, not only in college but in law school and so on?

BAS: Well, I think the discipline was the main factor and that you have to have discipline. When you go in you’re humiliated and I can see the necessity of this, at this time. You have to have; those in charge have to have control, that’s the only way to get it. In France, we were in a location where there was no effort, having all of this training and everything, at a location where there was no one that was really in charge, no rules were enforced, and in the barracks, no one swept the floors. You walked in at night and probably kick a beer can. So, the necessity of discipline has always been with me. You know, you have to have discipline, it’s not right that you have to come in and kick someone’s beer can or see that no one has swept around his bunk or made his bed, made his bunk. But that’s the main thing.

KEK: So, during your time at the FAA, what kinds of things did you learn or did you have to keep up with your continuing legal education at that point?

BAS: Yes, I’m not sure that we were even required to have CLE in those days. But there was always the bar journal. There was a drive to build a Bar Center and I was just getting ready to take the bar and I became a volunteer because I thought if I don’t get involved in this and I don’t make a contribution, they’re going to say, “Well, he’s not really interested so, we’re not going to let him pass the bar.” So, I worked and contacted other attorneys, “You want to give a contribution,” so that’s how our initial bar center came about.

KEK: Huh. So, so it was built with the contributions of attorneys?

BAS: Right.

KEK: And, is this the bar center that’s on Lincoln?
KEK: Huh, how interesting. And how did you, throughout your FAA career you obviously moved from the East Coast to the West Coast to Texas and then back to Oklahoma, how did you stay involved with the Oklahoma Bar or how did you stay engaged?

BAS: Well, by paying my dues and getting the bar journal. Wherever we were located, I always got the bar journal. And of course I had friends that were in practice and I kept in contact with them. We, as I said, my daughter was a graduate of OU Law and when she graduated there was a length of time between when they took the bar and passed it, before they were sworn in. There was a time when she had graduated before she could take the bar. And I had set up the law practice on North Broadway and she became, she did everything under my name. When she passed the bar, was admitted, we became law partners. And when I retired, as I said, left, retired on Friday went to the law office which I had running, on Monday. And we were there for a while and moved to North Robinson, 9th and North Robinson. And, before the bombing we were there for several years. Before the bombing we had moved to the south side of Oklahoma City.

The morning of the bombing I was reading the paper and we were in a house owned by my son-in-law that we converted into an office. When I heard the explosion, no one knew what it was. And that’s when the Murrah Building was bombed. When we were on North Robinson, we had several law offices in this building and one of the secretaries would take turns picking up the mail in the Murrah Building for all of the office building there. One of the conditions was they had to pick up the mail and be back by 9:00 o’clock. So, that was the first thing that I did because my youngest daughter, I was working with my oldest daughter who was my law partner, my youngest daughter who was a certified legal assistant, and my son, law clerk. My first concern was what happened to the person who picked up the mail. So I called and they said that she had picked up the mail, but she was back in the building before the 9:00 o’clock or shortly thereafter bombing. Later I went back and looked at the offices where we were. My daughter’s office faced Robinson; all of the windows were blown out of that office. My office faced the explosion, no windows were broken and my son’s office was okay, and of course my second daughter was a receptionist and that was fine. But see, we were only four blocks away from the bombing and it was, I guess fate had us move before the bombing because I’ve always thought we could have been injured and we were not. But it was a trying time for all of us in Oklahoma, especially Oklahoma City.

KEK: Absolutely. What were your thoughts, I mean, what were you thinking about as you said you heard the explosion, nobody knew what it was at that time?

BAS: Well, I thought it was a gas explosion. And my staff, they’re not there, and I started checking to locate all of them. But all of them, they came in and they were all safe. We had a backhoe that my daughter owned and I remember that was one of the first things we did. We called, offered the use of this backhoe and they said that they had enough at that time however,
“We’ll let you know if we do need it.” It was a situation where everybody pulled together. The bar, like we’ve done so often, when the tornado came in May of 1999, I believe May the 3rd. And so much destruction, especially out at Tinker, attorneys volunteered their time to help these people who were having difficulty with the insurance companies. And I represented two different families. And often we get a bad name just being an attorney but if those that volunteer their time and to my knowledge no one got paid nor should they have been paid. I suppose another thing, while I was with the government I was rather restricted in what I could do, you know, outside and I became involved in other activities after I left federal government. I became active in the Lawyers for Children, Lions Club, different organizations. I became politically active which I couldn’t do when I was with the federal government. My daughter and I were partners for 15 years and then she, after we moved to the south side she moved back downtown across from the courthouse. And I moved to McClain County because that’s where I did a lot of my practice and I set up an office right across from the courthouse. Then, at that time I had two children working with me, my son and my daughter. And they stayed with me until I closed out the practice after I became the chief judge here. But, Lesley became Assistant District Attorney in Grady County after she had moved downtown. So at that point we had to disband the law practice, Smith and Smith. I became sole practitioner and changed the incorporation over to Bob A. Smith, Attorney P.C. And that’s still in existence today and I still pay office expenses. Although I’ve closed it down, it takes a lot of money to have law practices and because of so many requirements that you have, updating of your equipment. See, all of this different than when I started out. The first briefs that I ever did and everybody did the same thing, we used carbon paper. You do know what carbon paper is?

**KEK:** I do know what carbon paper is, yes Judge Smith.

**BAS:** You make a mistake, you have to strike over it and you have to erase each one of those. You just hope that you don’t make an error because you’re going to do a lot of erasing. And then, after that came, and these mostly were manual typewriters and then we had the Selectrics which were a lot different. And, what do we have today, we have computers, we have e-mail. It’s like in bankruptcy court you have to have special permission to submit paperwork in bankruptcy court.

**KEK:** Right, because bankruptcy court is now all online, all electronic filing. So, you, at this point, still have sort of a solo practice on the side?

**BAS:** Not really, but I still have the corporation.

**KEK:** Okay, you’re still incorporated.

**BAS:** I’m still incorporated and I still have certain bills that I have to pay. I still have my office account and I have a trust account which I will be closing out but in the meantime it’s set up
where they get the interest, it goes to the ….., which is fine but there’s really no need for it anymore. But I filed an income tax return for the corporation and that’s basically it.

KEK: Well, let’s go ahead and take a break and then we’ll go ahead and continue on.

BAS: Alright, that’s fine.

KEK: Thank you.

KEK: Hi, this is Karen Kalnins again, I am a reference librarian at the Oklahoma City University Law Library and this is the second half of the interview here with Judge Bob A. Smith, he is the Chief Judge here at the Cheyenne-Arapaho or in the Cheyenne-Arapaho Nation. And, Judge Smith in the first half of the interview you sort of narrated your career.

BAS: Right.

KEK: And I wanted to get back to, you said you retired from the FAA after 32 years on a Friday and you started law practice on a Monday, what year was this?

BAS: 1986.

KEK: And then you said you practiced with your daughter in an office there downtown, and how long were you there downtown?

BAS: Fifteen years there and on the south side that I discussed earlier. But it was a total of 15 years.

KEK: Total of 15 years, okay. And when did you move to the south side?

BAS: We moved in September before the Murrah Building was destroyed the next year.

KEK: So it was probably September of ’94.

BAS: Right.

KEK: Okay, and the Murrah Building, the bombing was ’95.

BAS: By that time we were on the south side.

KEK: And what kind of a response did, or how did the legal community in Oklahoma City respond to the bombing?

BAS: Well, the legal community really came together and volunteered their time to assist those people that needed assistance. And I think that everyone can be real proud of the response that attorneys not only in Oklahoma City but throughout the state, what they did at this time. As
other tragedies that occurred in Oklahoma, same thing, tornados, bar members were there to assist.

KEK: What types of cases did you all handle?

BAS: We handled general practice. We handled, my daughter handled mostly family law, child custody, divorces, and civil practice. I did the bankruptcies, probates, and the rest of the cases. I did some criminal defense work and only after I moved to McClain County did I really get involved in that area of the law. And I became involved in establishing a drug court for McClain and Garvin Counties and Community Sentencing. I was involved in organizing that. And this is where I got into representing defendants who had run afoul of the law.

KEK: Tell me about organizing these drug courts and these alternative sentencing types of programs, why did you become involved in that?

BAS: Well, first of all we had a Justice Department grant and we had to organize this, we’re talking about drug court. We had a judge, we had a defense attorney, that’s the role that I assumed. We had providers and during our setting this up we went to different places within the state that had drug courts to observe them. We went out-of-state to different locations for training so we went as a team. The judge, Judge Blalock, who is a district judge, Cleveland, McClain, Garvin Counties, she was our first judge. And we got training and then we came back and the first participants we had in drug court were five of my private clients. They were the first drug court participants. The way this operates I would have clients and they would qualify for drug court, they would be admitted to drug court, other attorneys had clients that would be admitted to drug court. After they were admitted, that attorney stepped away. He had no further responsibility to his clients. They became, as a defense attorney for drug court, they became my responsibility so I had a mixture of my private clients that went into drug court and those that were accepted after having been represented by other counsel. And at the same time about this time we set up a committee for Community Sentencing and the same basic premise there was some of these people do not require being in drug court but some form of community sentencing where they go or certain requirements are placed on them. They can graduate after a certain length of time just as a drug court. They sign an agreement first of all saying, “Instead of your sending me to prison at this time, I’m going to go through drug court. If I finish, if I graduate drug court my slate is going to be wiped clean, I’m not going to be incarcerated. If I fail drug court, if I can’t keep from using drugs” and they are tested, the participants are tested, “then I realize I’m going to go to prison. I’m going to serve this time that is on my contract.” The majority of the participants graduate, not all of them, some of them, they’re given many chances they may test positive for instance. That’s not going to kick them out or send them to prison, a continuation of this or it’s structured where they have to follow the rules, they have to report at a certain time by telephone. They have to be, have curfew. Now, if they can’t follow this they know they’re going to go to prison.
**KEK:** How effective do you think these programs are?

**BAS:** Oh, very effective, very effective because they have to pay a certain amount to be in drug court, not a great amount but they have to pay that. And if we send someone directly to prison without this, we’re, taxpayers, are paying thousands of dollars for the incarceration of this individual. Those that graduate can get on with productive lives. We have saved sending them to prison and all the costs that are involved there. I understand it costs more to send a person to prison than it does for a college degree which is, something’s wrong. So, both programs are very effective and I think that very few people will tell you it’s not, they’re not worthwhile because they are. And you see the lives that are changed. I’ve had mothers tell me, “You know, you gave my son back to me by getting him into drug court. He’s completing it because he was on the road to ruin before he got into this.”

**KEK:** How did you balance your role as, your role as a private attorney in defending you know, some of these clients, and then your role in drug court as the defense attorney there?

**BAS:** Well, I always told my private clients that were going into drug court that if they failed to follow the rules as the defense attorney, I would be harder on them than anyone else on the drug court team which includes the assistant district attorney, the judge, and the providers because I said I’m putting my reputation on the line to get you in. I believe in you therefore my coming down hard on you when you fail to obey the rules is for your benefit but that’s the way it has to be. I’m not going to, just because you go in as my private client, you’re going to be with all the others, you’re going to be treated the same but I expect more from you and that’s it.

**KEK:** When did you move to McClain County, what year was that?

**BAS:** I moved there in, it was about; I was there over ten years so I don’t remember exactly when I moved there. And I moved across, directly across from the courthouse which was rather convenient. Then I moved next door and that’s where I was for several years. It was real convenient. And I saw a lot of changes.

**KEK:** It sounds like it. Tell me about, if you can remember any of your memorable cases while you were in private practice whether in Oklahoma City or in McClain County.

**BAS:** Okay, I think one of the most interesting cases that I had was that I represented, I’m from southeastern Oklahoma, I’m from Coal County. I represented the court clerk and the county clerk in a dispute with the county commissioners. It is difficult to go back to your hometown and this is not a popular case because we’ve got those supporting the county commissioners, those supporting the two clerks. My first day, the judge recused, they brought Judge McBee from southeastern Oklahoma to hear the case. And the courtroom is filled with spectators and I said, “Why are these people here?” I can pick them out you know, I know these people and I was told, “They are here to see you.” I said, “They’re here to see if I’m going to fall on my
face.” But anyway, that was one of the most interesting cases that I think I’ve ever had. It’s difficult to do that. Another interesting case in Oklahoma County I represented a black church. Who owns the church? There was a dispute. No judge wants to touch a case that involves a church. You know, it’s not judge shopping but I finally found a judge, Judge Freeman, he said, “I’ll hear it.” And this is different, they’re emotional people and the congregation is there especially those that, I’m representing the pastor and his followers. And it’s impossible to, when I would make a point, they would say, “Amen, right on brother.” While this was one of the most interesting cases I have had, now I have to say that Judge Freeman had had a bad experience with the church that he was in and I have to believe that it affected his ruling. And he ruled against my client.

KEK: Oh, I’m so sorry.

BAS: But it was alright, we all came out. You know, when people often in churches, they often come armed or they go armed if there’s a dispute. In 1984, while still with the FAA I was approached by 5 individuals who had hired a McClain County attorney to regain control of the Blanchard Cemetery from two individuals. The attorney due to the subject matter never moved on the case. The retainer of $500 was returned and paid to me. I knew nothing about cemeteries, so informed my clients as well as my law partner/daughter. She said you will know more than anyone else, including the judge. In 1917 the Chickasaw/Choctaw Nations transferred 20 acres to the McClain County Commissioners for the establishment of a cemetery at Blanchard. The Trustees incorporated and the land was transferred. In Oklahoma there are several types of cemeteries as detailed in Title 8 OS. Blanchard is a Corporation with each lot owner being a member of the corporation. It is managed by a Board of Directors elected each year. Cemeteries are lucrative endeavors so the Town of Blanchard, now City of Blanchard took it over for the revenue it was generating. Their attorney advised the Town it could not do that and returned it to a Board of Trustees, the second error on the part of the Town. The Trustees in turn turned the cemetery over to two individuals. They in turn paid relatives for ghost employment and amassed several lots or spaces in their names. One of them laid claim to over 700 spaces in his name, family names and sham corporate names. Having completed discovery we filed suit in the McClain County District Court. After a lengthy trial the Plaintiffs prevailed and the Defendant’s attorney nearly lost his license due to unethical practices. He later became an addict/street person and was disbarred. The Defendants appealed to the Supreme Court and once again the Plaintiff’s prevailed. At this point we went after their bank accounts, property and the cemetery lots. From total assets of $30,000 when we regained to more than $600,000 in assets today one can see why the Defendant’s wanted to keep control of the cemetery. For several years I served as the Pro bono attorney for the Cemetery Corporation. I was elected to the Board of Directors; the Board elected me President and does so each year. Did I get a large fee? Only the $500 retainer but what a great ride!
Another thing when I was with the federal government I had an administrative hearing where I was a witness for 26 hours. And it was over a situation where again, there was a lot of publicity. My sisters were afraid that someone would put a contract out on me and I told them, “No, no.”

The situation was that a fixed base operator, we had one at Meacham Field which is an airport in the Fort Worth area handles basically general aviation or small aircraft with one person at a fixed-base operation which means that he maintained all of them. One day a young man came to me and said, “I’ve been trying to get onto the field to establish a business, what do I need to do?” And I said, “You don’t need to do anything, we’ll do it for you, we the government because they have to let you operate on that airport.” We go before the city council of Fort Worth, the city council says, “No, they can’t come in.” Now they’re getting, we have DFW, Dallas Fort Worth Airport. I told them this is what is going to happen, “You either let him operate on the airport or we’ll withhold funding, we’re required to withhold funding from you.” We’re not going to withhold funding from Dallas, the city of Dallas, and we’re talking about a couple of million dollars at this time. And they said, “We don’t care what you do, we’re not going to let him on.” So, I gave a check to Dallas for a million dollars and I held onto Fort Worth’s. We had this administrative hearing and I prepared briefing books for all the participants and this is when I take the witness stand and I’m on the witness stand for over 26 hours. And I have calls from Washington, D.C. about how this same thing is happening at Washington National Airport. And my answer is, “I’m not responsible for Washington National Airport, I’m responsible for this.” And this is during the time that my wife has come back to Oklahoma so I’m in this apartment by myself and this is when my sisters warned me. They said, “We lived in Fort Worth and they’ll hurt you.” And I said, “No, they won’t, they don’t even know where I live.” Of course I’m listed in the telephone directory. But no one ever did that.

KEK: And, what was the, what was the outcome of that administrative hearing?

BAS: They said that they were blackmailed by me and that they had to let this young man onto the airport. They let him on. He established a business, I gave them the million dollar check. We’ve lived happily ever after, hopefully.

KEK: And what about the first case that you mentioned, where you defended the two clerks. What were the issues and what was the outcome there?

BAS: The outcome is that they had, there’s a section in the law that says that they get travel expenses if they go to a conference or something, they get mileage. But then there’s another section that says they can get this amount without any justification and that’s what they were suing for because the county commissioners were getting it but they’re saying, “We’re not going to give it to you.” Well, they did but I couldn’t go back retroactively and get anything for them.
But we came out quite well so they did have to pay them, follow the law, that’s what you have to do, that’s what they did.

**KEK:** Wonderful. And what about the African-American church now, what was the outcome there? You said Judge Freeman ruled against you….

**BAS:** Well, it was two groups fighting over control of the church. Who owns the church or who’s in charge? And this is basically what it was. My client, he was the pastor, and someone else claimed to be the pastor. And, we had to sort this out. And I was ruled against by Judge Freeman but at least, I’ll always appreciate that he took the case. He didn’t shy away from it and because you got to think about, “I’m going to have to run for reelection.”

**KEK:** That’s right, that’s right. Okay, so, so, when did you feel like you had wrapped up your practice in McClain County, what year was that?

**BAS:** 2008.

**KEK:** And when did you start your term here as tribal court judge?

**BAS:** April the first, 2008. I signed a contract the day before, the 31st day of March and reported the next day, which is April the first. Keeping in mind that I had been a special judge for the Cheyenne Arapahos in this court system for five years before I became a full-time judge and one of the requirements is that….. We have a new constitution, 2006 is when it went into effect and we have four branches of government instead of three. We have executive, legislative, judicial, and tribal council. Tribal council consists of those 18 years of age or older. And we each have our set duties. We also have a supreme court consisting of a Chief Justice and four Associates. They hear appeals from trial court and we have in our court system here, I have two special judges. One of them is Barbara Smith. Barbara Smith is also Chief Justice of the Chickasaw Supreme Court. The other one is Dana Deere. Dana is in private practice in Cleveland County in Norman. They hear cases when I have to recuse. And I’ve recused twice since April first of last year. Dana will be hearing a case next week that I felt that I, it’s against people that I’ve known for years and I didn’t feel that I should hear that. She’ll be hearing that. While our facilities are not that great, when the special judge comes they use my office and I use something else. We have a court clerk and a deputy court clerk, outstanding people. And the probation officer that was hired and has completed his probationary period, well-educated, experienced person, was with the Juvenile Justice system in Oklahoma for many years. And then I hired a public defender, a young attorney who has a practice in Edmond, does an outstanding job and that’s for those that need assistance. And they are told that he’s available and often they will use him or they’ll call him and he helps them. We have Oklahoma Indian Legal Services that come, they come usually once a month and this person helps members maybe do wills, or help them with paperwork. And Oklahoma Indian Legal Services does a great job in representing Native Americans in Oklahoma.
KEK: Well, let’s go back, when did you become a tribal member of the Cheyenne Arapaho Tribe?

BAS: Okay, I’m not a tribal member of neither the Cheyennes nor the Arapahos but I’m here I suppose because of my experience in Indian Law. My work with Oklahoma Indian Legal Services is where I first started out. I was elected to the Board of Directors of Oklahoma Indian Legal Services several years ago. And this again, is one of those situations where nobody is paid anything, the Board of Directors. And then I was on that for one year and I became President of the Board of Directors of Oklahoma Indian Legal Services. When my time was up my daughter was nominated and approved, nominated by the Bar Association and she served. After, or I guess during her first year being on the Board of Directors I had a call on a Sunday afternoon and the director had done some things that were not acceptable and they asked me if I would be interim director. And I said yes. Now, I’m in Purcell, I have a law practice going on but I was paid x number of dollars for whatever time I spent there so I carried on my practice. Also, I went to Oklahoma City and served as interim Executive Director of Oklahoma Indian Legal Services and I was there for almost a year. I moved the entire operation from this high-rise building on Northwest Expressway which has now been turned into upscale condos, and we moved to another location and it has expanded. And after I was there nearly a year, they chose a full-time director so then I went back to my practice. During this time I’m a special judge here and I hear a lot of cases where the judge had recused. So, this is how I got involved with the Cheyenne-Arapahos.

KEK: And, how did you, how did you, get appointed as Chief Judge or did you apply for the job or how did were you selected?

BAS: I submitted an application. I submitted documentation, copies of my degrees with copies of my Army records, all of this and that went in. The way that the judiciary is selected here, the Governor nominates the person chosen to the legislature. The legislature has thirty days, if they take no action, it’s approved by the legislature. And then it goes to the Tribal Council, the Tribal Council then either approves or rejects this person that’s being nominated. They have 60 days, if they don’t take any action within 60 days, it’s automatic. In my particular case there was a vacancy to be filled on the Supreme Court and this woman is a member of the Cheyenne-Arapaho tribes, she is an attorney in Portland, Oregon. She and I were nominated by the Governor, and it was sent to the legislature. Due to turmoil, no action was taken within the 30 days which meant they automatically approved it. Then it went to the Tribal Council, the Tribal Council met in a special Tribal Council meeting for that purpose only and we were approved by the Tribal Council unanimously. At that time the Governor could tell me that I was the Chief Judge. I told this person from Oregon that she had been confirmed as the Supreme Court Justice. We had a swearing-in ceremony here, the Chief Justice of our Supreme Court came, and our relatives and friends, had the ceremony here and I was sworn in. And she was sworn in by telephone. We had, this week, we had a swearing in of the legislature that was elected. And it
was done here, the Chief Justice was in Chickasha and it was done over the telephone. The first day that I was Chief Judge here, not special judge, but after I had been selected and all this routine I heard 30 cases on April the first. Now I have four dockets, I have juvenile, criminal, civil, guardianship. The caseload is terrific. I selected an associate judge last October. Nothing has been done so I have all these cases that I hear, and I’m full-time.

KEK: And what, what are the days that you hear cases, do you hear cases every day or…? 

BAS: Not every day. We schedule them because a lot of our cases that are criminal require the presence of the Attorney General. And we have a man, Truman Carter, is our Attorney General. He has to be here to present his charges. Others, yesterday we had a civil docket, started off with a guardianship, I’m sorry, an adoption, and tomorrow I’m going to have a criminal docket. But I have dockets several times a week. Another interesting thing is that I perform marriage ceremonies and from April to December of last year I did 14 and so far this year, we’re in February, and we do them here in the courtroom, I turn the lectern around. And yesterday we had a hearing and the attorney said, “Judge, is there any reason why this lectern is turned this way?” because I turned it this way where I could stand behind it. And I said, “We had a wedding and I forgot to turn it back.” He said, “May I?” and I said, “Please do.”

KEK: Now, do you have or does the judge, or do you as judge, you said you were not a member of the Cheyenne or Arapaho tribes, do the judges here have to be members of the tribes?

BAS: No. In fact, my court clerk is a Cheyenne Mississippi Choctaw, my deputy court clerk is an Arapaho. You see, it’s two tribes that are together, so it’s the Cheyenne-Arapaho tribes. And a lot of employees like my probation officer are not Cheyenne-Arapaho, the other person that I have is not Cheyenne-Arapaho. But they’re qualified people, I think that’s the main thing. There’s Indian preference in hiring if someone is available but I know when I was a special judge I had a case from out of state and the person was representing himself. And he filed a motion that I disqualify myself because he wanted a Cheyenne or an Arapaho judge. Somebody said, “I don’t know of a Cheyenne or an Arapaho judge.” So, I declined and I heard his case and ruled against him not because he filed that but based on what I had been presented. But he came up and shook my hand and said, “Judge, I had to try,” and I said, “I understand.” And I have seen him, he came in with someone else less than a month ago. So, it’s like a lot of other things, we keep running into each other.

KEK: Talk about how the tribal courts here sort of intersect with the state courts and with the federal courts.

BAS: We have our own code, tribal code. Basically, we follow that. Sometimes it is not covered in the code, rarely, and the code allows us to go to, to use state law, use federal law, or if neither of these help then the judge is authorized to do what he thinks is appropriate. But we do, we follow a tribal code. And each of the tribes that have a court system may have their own
code. So, in order to practice in that court you have to have access to their code. And most everything is covered in the code. Juveniles, guardianships, we started off yesterday morning with this adoption, and those are always pleasant. This girl being adopted will be 10 years old this March and while I’m not required to talk with her I felt that I should because she was an astute young girl. So before we started I had my deputy court clerk come and get her and we just talked with her and asked her, “Did she understand what was going on?” And she’s been with these foster parents since she was a baby so they are the only parents she knows. She said, “Yes,” she understood and I said, “Do you want this to happen?” and she said, “Yes.” But I felt like I need to recognize her, get her input into this and she did. And then, I told her, I said, and she admitted that she was extremely nervous and I said, “Don’t be nervous because you’re going to stay with Patty.” And she just had a grin … so it’s not wise to have a child that’s being adopted in the courtroom and so I’m real conscious of this and sensitive to their needs, and to take care of them like children. I don’t want children in here when their parents are going through a divorce, they’re not going to be, you have to be conscious of this, I try to be. To hurt somebody is so easy and to have children here while parents are divorcing and something ugly comes up, they don’t need to know about this.

**KEK:** And, I also wanted to ask you about attorneys who practice here in tribal court, do they need to, besides their Oklahoma Bar membership, do they need to have any other types of bar membership?

**BAS:** They have to be a member of the Cheyenne-Arapaho Bar and they fill out an application, they show where they graduated from law school, we have a certification for Oklahoma Bar Association members in good standing, and they pay a 50 dollar fee and we have this in our code. Attorneys and lay people who practice before the court the requirements and they have to be aware of the Tribal Code, they have to file an Entry of Appearance. I had one yesterday and I said, “I can’t find where you have filed an Entry of Appearance.” “Well,” he said, “I filed the petition,” and I said “You still have to file an Entry of Appearance.” He said, “I’ll take care of that.” So, we, and if they haven’t filed, and I can authorize to let them go ahead that day and say, “I have the authority to approve your practicing today but you’re going to have to be a member, here’s the application.” And they do. We’re always conscious of this.

**KEK:** Are attorneys confused about this, I mean, if they come here to handle a case are they pretty well-versed in the Tribal Code and …..?

**BAS:** Sure, and some of them follow basically maybe doing an order or something, they follow the state code and these orders are similar to the state’s, so it’s no big problem here. We have attorneys who are probably here every month both parties may have an attorney, one might be from Watonga, one from Enid, it’s just like in Oklahoma County or any other county. Our rules and procedures are similar to Oklahoma, similar to the state, I would say. Again, we have a bailiff, we call him a bailiff, he is a BIA officer but he in turn announces me, he calls each case
by the number. He in turn goes to the door and calls out the name of the people involved, and comes back and tells me, “They’re not here,” or if they come in, we start their case. But it’s necessary that we have a bailiff, he of course is armed. We never have any disturbance in the courtroom as such however, often he’ll have to go outside the courthouse because a couple may be arguing and he has to tell them that they need to go on or he will have to arrest them for disturbing the peace. But, it’s different than state court because in state court you don’t always have someone acting as a bailiff and especially someone that has authority or is armed. If the BIA officer is running late we don’t hold up the court, I start at 9 o’clock and if he is not here, my probation officer will serve until he gets here. Yesterday, my deputy court clerk served but then he came in and it was a smooth transition, she steps aside, he takes over.

KEK: How is the role of the judge different in tribal court as opposed to state court or federal court? Can you speak to that?

BAS: I’m not sure there is a great difference because we follow basically the same procedures. If someone is testifying, they’re sworn in, they may be just testifying before the court here, standing in front of me, they’re sworn in. Other times when we’re having trials, they have to sit over there, we don’t have a court reporter as such but we record everything that goes on, on this machine. And they can go back and pull whatever’s needed and it can be transcribed. I would say we follow basically the same rules or procedures that are there.

KEK: So, would you follow the same rules of evidence and …..?

BAS: That’s right, that’s right. Like someone, their marriage is being dissolved, it’s now dissolution of marriage instead of divorce, I have to tell them, “You can’t remarry for 6 months from today except if you remarry each other.” Sometimes they laugh, fat chance, and then I put it in the order. But you have to do this to be sure that everybody understands, don’t run off to Texas and get married. I would say we follow the same rules.

KEK: And why would someone choose to come to tribal court as opposed to state court?

BAS: Well, first of all, if they’re a tribal member the cost is less, the fees are less. That would be one reason and if they can’t afford to pay a filing fee, they can file an affidavit which is an in forma pauperis affidavit, and the court will approve that. And they can file whatever they want and the court is not going to charge them. And I think they feel more comfortable coming here because they are Cheyenne or Arapaho and this is more convenient for them. It’s like those that are being married here it costs them 20 dollars for the license and they have to show two proofs of identification with their picture on it usually. And the court clerks are real strict to make sure this is carried out and they can come to a Justice of the Peace, which we don’t have anymore, but they could get married by a judge outside but they prefer to come here because they feel more comfortable.
**KEK:** What do you think the role of tribal courts play for the tribal members?

**BAS:** Well, I think they’re necessary, tribal courts are necessary because of the volume of cases that could not be heard by state courts in a timely manner because our state courts are inundated right now with cases. And each tribe is a sovereign nation and then tribes feel if we are a sovereign nation, we need our own court system. Not all tribes have court systems, but they do have access to a CFR court which is Code of Federal Regulations court and we have one in Anadarko. They operate similar to the way that we do. Like in state court I can file a pleading and I can write a check from my office account throughout the state except tribal courts. You have to have a money order or certified check regardless of who you are. Same way with the CFR court. I can’t file an adoption if I give them an office account check, I have to give them a money order. So, we don’t have any problems collecting on checks.

**KEK:** Well right, because you have to bring the money up front, so to speak.

**BAS:** I have an adoption representing clients that adopted one Indian child and these are Kiowas and we have another one ready for adoption. And when I file my adoption fee, which is 80 dollars or something, court costs, I have to send them a money order or cashier’s check.

**KEK:** So even you are not immune to …..

**BAS:** No, no.

**KEK:** Describe the appeals process in tribal court.

**BAS:** After a decision is rendered by the court all the parties are of course notified, and if anyone disagrees they in turn file a Notice of Appeal. The entire record then is provided to the Supreme Court Justices, we’re talking about five different people. And the whole record is sent out to them. And they will meet and render a decision.

**KEK:** Is there an oral argument and are the cases briefed by the attorneys?

**BAS:** Rarely. We’ve had one where it was heard at the OU law school, had oral arguments, the entire court sat at that time, the deputy court clerk and the court clerk were there. That’s one of the few times, but most of it is done on the record, the appeal, the review of it which is good.

**KEK:** Well, it definitely cuts out the work of the oral argument and the briefing.

**BAS:** Right.

**KEK:** What is your general judicial philosophy Judge Smith, how do you view cases and litigants before you?
**BAS:** Well, I expect the people who appear before the court to be prepared to move, we have so many cases to move along as quickly as possible. But giving everyone adequate time to express what they are trying to get across and so many of our people appear pro se, they can’t afford an attorney. We have a public defender and I always tell them, “The public defender is available if you’d like to confer with him, this is why he’s here. We could continue your case if you want to.” And sometimes they say, “No, I don’t need any assistance.” Very good, we offer it but I’m always concerned about people being honest, not lying to other people because in private practice I had a situation where this young attorney lied to me. And I told him, I said, “Don’t lie to your clients and especially don’t lie to another attorney.” We became rather good acquaintances after that but it’s just not acceptable. It’s just not acceptable to take something that doesn’t belong to you. And we have a lot of that, where people have taken money that doesn’t belong to them, they’re serving prison terms, federal prison terms. Lives are ruined because well, you’re either honest or you’re dishonest as far as I’m concerned.

**KEK:** Well, true enough, true enough. Well, Judge Smith is there anything that I haven’t asked you that you would like to talk about?

**BAS:** I don’t think so. I think we’ve covered everything, probably more than you wanted to know.

**KEK:** No, you have been wonderful, you have been very gracious with your time and I realize we’ve gone well over the hour, we’re into two hours almost.

**BAS:** That’s okay.

**KEK:** So, I really appreciate your time today and I just appreciate your insight and I think it will be a valuable addition to the oral history collection.

**BAS:** Thank you. I enjoyed your being here, if we can help you in any way just let us know.

**KEK:** I will, thanks again.