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Lance Kimbro

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TRIBUTE

EZRA, REHNQUIST, AND ST. MARY'S UNIVERSITY

LANCE KIMBRO*

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I. INTRODUCTION

U.S. District Judge David Alan Ezra has earned a sterling reputation in the legal profession as the youngest judge to ever sit on Hawaii's federal bench, the longest serving active judge in Hawaii, and the first St. Mary's School of Law graduate to serve on the Federal Judicial Conference.¹ There is more to Judge Ezra's story, however, than the multitude of news columns² and biographical entries³ charting the high points of his career. Some of those hidden scenes feature his relationships with U.S. Supreme Court Justices, particularly the late Chief Justice William H. Rehnquist. Ezra and Rehnquist developed a personal relationship based on their common connection to St. Mary's University School of Law.

Judge Ezra grew up in Honolulu, Hawaii, attending high school at Saint Louis School in Honolulu.⁴ The Marianist brothers there encouraged Ezra to attend St. Mary's University—another Marianist institution⁵—on the mainland.⁶ Although he had already begun his undergraduate studies at the University of Hawaii and Chaminade University, Ezra decided early that he

1. See *infra*, notes 37, 56.

2. *St. Mary's Law Unveils Portrait of Chief Judge Emeritus David Ezra*, ST. MARY'S UNIV. (Oct. 12, 2016), <https://www.stmarytx.edu/2016/portrait-david-ezra/> [<https://perma.cc/7MLA-RAL4>] [hereinafter *St. Mary's Portrait of Chief Judge Ezra*]; Guillermo Contreras, *Hawaiian Judge Coming to Alamo City*, MY SAN ANTONIO (Dec. 25, 2012), https://www.mysanantonio.com/news/local_news/article/Hawaiian-judge-coming-to-Alamo-City-4145437.php [<https://perma.cc/3W3J-5EUL>]; Malia Zimmerman, *Hawaii's Federal Judge David Ezra to Quadruple Caseload in Southwest Border State*, HAWAII REPORTER (Sept. 24, 2012), <http://www.hawaii-reporter.com/hawaiiis-federal-judge-david-ezra-to-quadruple-caseload-in-southwest-border-state/> [<https://perma.cc/KFF7-U74L>].

3. *Senior U.S. District Judge David A. Ezra*, U.S. D. W.D. OF TEX., <https://www.txwd.uscourts.gov/court-staff/senior-u-s-district-judge-david-a-ezra/> [<https://perma.cc/MBQ2-59QH>]; *Judge Ezra Short Biography*, U.S. D. DIST. OF HAW., https://www.hid.uscourts.gov/docs/bios/DAE_Bio.pdf [<https://perma.cc/MTY9-FNX3>]; *The Honorable David A. Ezra (Retired)*, U. OF HAW. AT MĀNOA: WILLIAM S. RICHARDSON SCH. OF L., <https://www.law.hawaii.edu/person/honorable-david-ezra> [<https://perma.cc/7YQG-NQRD>].

4. Audio Tape: Comments from Judge David Ezra to Lance Kimbro (July 17, 2020) (on file with author) [hereinafter *Judge Ezra July 17 Comments*]; see also *About Saint Louis School*, SAINT LOUIS SCH., https://www.saintlouis-hawaii.org/m/pages/index.jsp?uREC_ID=367605&type=d&termREC_ID=&pREC_ID=687661 [<https://perma.cc/6QSF-J7UM>] (providing the history of the Marianist college preparatory school).

5. See *St. Mary's Law History*, ST. MARY'S SCH. OF L., <https://law.stmarytx.edu/academics/about/st-marys-law-history/> [<https://perma.cc/88SL-MVRT>] (“In 1934, the law school acquired its name, its Catholic and Marianist mission, and its commitment to excellence in preparing lawyers to national standards of skill, knowledge, and professionalism.”).

6. Judge Ezra July 17 Comments, *supra* note 4.

would continue to law school after graduation and pursue a career as a trial attorney.⁷ Ezra found it wise to heed the brothers' advice and transfer to St. Mary's to complete his bachelor's degree in Business Administration because Hawaii did not yet have a law school.⁸ Moreover, Ezra had heard St. Mary's University School of Law was a "lawyer's law school,"⁹ where graduates enter the legal profession prepared to "hit the ground running." That was ideal for an aspiring trial lawyer.¹⁰

In the Fall of 1969, Judge Ezra began his legal studies and found that St. Mary's met his expectations for a "lawyer's law school" education.¹¹ Judge Ezra studied under several influential professors, including Dean Charles E. Cantú,¹² the late adjunct Professor Edward Peshorn,¹³ the late

7. *Id.*

8. The University of Hawaii's law school was not opened until 1973. *Time Line*, U. OF HAW. AT MĀNOA: WILLIAM S. RICHARDSON SCH. OF L., <https://www.law.hawaii.edu/time-line> [<https://perma.cc/EE3J-UTDG>]. The University of Hawaii still honored Judge Ezra with the Founders Alumni Association Lifetime Achievement Award. This is particularly significant because Judge Ezra is the only recipient who was not a graduate of the University. See *UH Alumni Association Announces Distinguished Award Recipients*, U. OF HAW. NEWS (Mar. 4, 2013), <https://www.hawaii.edu/news/2013/03/04/uh-alumni-association-announces-distinguished-award-recipients/> [<https://perma.cc/F44J-C4VW>] (recognizing the distinguished recipients of the University of Hawaii alumni awards, including Judge Ezra).

9. See Charles E. Cantú, *An Oral History of St. Mary's University School of Law (1961–2018)*, 50 ST. MARY'S L.J. 309, 393–94 (2019) ("Under Ernie Raba, and subsequent to him Jim Castleberry, the mission of the law school could be stated quite simply as being a lawyer's law school.").

10. Judge Ezra July 17 Comments, *supra* note 4; see also James N. Castleberry, Jr., *St. Mary's University School of Law*, 6 CATHOLIC LAW. 49, 49 (1960) ("[St. Mary's] School of Law has developed as a 'lawyers' law school,' devoted to the highest ideals of the bench and bar."). Judge Ezra attributes his early success as a practicing lawyer—including becoming a large firm partner ahead of graduates from prestigious or Ivy-league law schools—to his St. Mary's education. Judge Ezra July 17 Comments, *supra* note 4.

11. Charles E. Cantú, *An Oral History of St. Mary's University School of Law (1961–2018)*, 50 ST. MARY'S L.J. 309 (2019).

12. Charles E. Cantú, ST. MARY'S UNIV. SCH. OF LAW, <https://law.stmarytx.edu/academics/faculty/charles-cantu/> [<https://perma.cc/BD6Y-T4EM>].

13. Judge Ezra July 17 Comments, *supra* note 4; see *The Faculty Corner*, BARRISTER NEWS (St. Mary's Univ. Sch. L.), Fall 1961, at 2, 4, <https://commons.stmarytx.edu/barristernews/12> [<https://perma.cc/Q5YU-UXK5>] (recognizing Edward Peshorn's legal background and upcoming role as an adjunct labor law professor). Particularly, Judge Ezra credits Professor Peshorn's class for preparing him for the multitude of labor law and admiralty cases he would later adjudicate as a district court judge in Hawaii. See, e.g., *Petro v. Jada Yacht Charters, Ltd.*, 854 F. Supp. 698 (D. Haw. 1994) (ruling on an admiralty jurisdiction dispute).

Professor Joe Anderson,¹⁴ Professor Emeritus Al Leopold,¹⁵ and the late Dean Ernest A. Raba.¹⁶ In addition to his studies, Ezra also participated on the *St. Mary's Law Journal*¹⁷ as a “Business and Reviews” editor.¹⁸ His accomplishments both during law school and in his professional career prompted St. Mary's University School of Law to honor Judge Ezra with various awards, including the Rosewood Gavel Award and the Lifetime Achievement Award.¹⁹

Judge Ezra graduated first in his class in 1972. Thereafter, he served as a U.S. Army officer for the 25th Infantry Division until 1973.²⁰ After a year of active duty, Judge Ezra began working for Greenstein, Cowen, and Fry to gain trial experience.²¹ About six months later, he transferred to Anthony, Hoddick, Reinwald & O'Connor—one of the most prestigious big law firms in Hawaii in its time. Judge Ezra quickly surpassed his peers²²—many of whom were graduates of Ivy League or other prestigious law schools—and became a partner at the firm in 1976.²³ In 1980, Judge Ezra founded his own law firm of Ezra, O'Connor, Moon & Tam, where he served as the managing director and an active practitioner in financial services litigation.²⁴ After eight years in private practice, he

14. See Michael S. Ariens, *In Memory of Joe E. Anderson (1928–2016), Professor of Law*, *St. Mary's University School of Law*, 48 ST. MARY'S L.J. xiii, xiv (2016) (commemorating Professor Anderson's legacy at St. Mary's).

15. See *Aloysius A. Leopold*, ST. MARY'S UNIV., <https://law.stmarytx.edu/academics/faculty/aloysius-leopold/> [<https://perma.cc/Y3RW-CJMK>] (providing Professor Emeritus Leopold's biographical information).

16. See generally Aloysius A. Leopold, *A Tribute to Ernest A. Raba, Dean (1946–1978)*, *St. Mary's University School of Law*, 40 ST. MARY'S L.J. 3 (2008) (memorializing Dean Raba's impact at St. Mary's during his tenure as dean).

17. See Barbara Hanson Nellermeoe, *50 Years of Excellence: A History of the St. Mary's Law Journal*, 50 ST. MARY'S L.J. 1, 19 n.90 (2019) (noting Judge Ezra was an associate editor on the *Journal*).

18. Judge Ezra July 17 Comments, *supra* note 4.

19. See *St. Mary's Portrait of Chief Judge Ezra*, *supra* note 2 (recognizing Judge Ezra's receipt of the Rosewood Gavel Award in 2007, the Lifetime Achievement Award in 2013, and the unveiling of his portrait in the Sarita Kennedy East Law Library's Law Alumni Room in 2016).

20. See *A Brief History of the 25th Infantry Division*, 25TH INFANTRY DIV. ASS'N, <https://www.25thida.org/division/> [<https://perma.cc/PBM4-J836>] (summarizing the history of the 25th Infantry Division).

21. The firm fulfilled his wishes promptly; on the second day of Ezra's new job, the firm assigned him a trial packet to be in court the following Monday. Judge Ezra July 17 Comments, *supra* note 4.

22. Judge Ezra attributed his quick climb to partner to the “great educational foundation” he received at St. Mary's. Judge Ezra July 17 Comments, *supra* note 4.

23. *The Honorable David A. Ezra (Retired)*, *supra* note 3.

24. *Id.*

received a proposal that definitively changed his career trajectory: Judge Ezra's name had been submitted to the White House for an interview to become a federal judge.²⁵

Judge Ezra did not lightly approach the prospect of leaving his lucrative private practice for the bench.²⁶ He sought advice from trusted confidants, including the first governor of the state of Hawaii, Governor Bill Quinn.²⁷ Governor Quinn encouraged Judge Ezra to take the opportunity with frank advice: "If you don't like it, you can leave."²⁸

Judge Ezra received a phone call from President Ronald Reagan following the interview in Washington, D.C. The two exchanged pleasantries over Reagan's acting career, family friends in the film industry, and Reagan's fond memories of visiting Hawaii, concluding the conversation with a nomination offer. Judge Ezra accepted on one condition: His nomination was to be vetted by the U.S. Judicial Nominating Commission.²⁹ After receiving positive recommendations from the Commission, the Federal Bureau of Investigation, the Department of Justice, and the American Bar Association, Judge Ezra officially accepted his nomination for district court judge for the District of Hawaii.³⁰ He was unanimously confirmed on May 19, 1988, and sworn in on May 20, 1988—becoming the youngest judge to ever take the federal bench in Hawaii.³¹

25. *Id.*

26. Judge Ezra July 17 Comments, *supra* note 4.

27. See Gov. William Francis Quinn, NAT'L GOVERNORS ASS'N, <https://www.nga.org/governor/william-francis-quinn/> [<https://perma.cc/L4CU-C58D>] (detailing Governor Quinn's history as governor of Hawaii).

28. Judge Ezra July 17 Comments, *supra* note 4.

29. At the time of Judge Ezra's appointment, Hawaii did not have an opening for a circuit judge; and because both senators at the time were Democrats, the Carter Commission served as a federal district judge nominating commission. Audio Tape: Comments from Judge David Ezra to Lance Kimbro (Oct. 23, 2020) (on file with author) [hereinafter Judge Ezra October 23 Comments]. The "Carter Commission," in informal terms, was a non-partisan commission created by President James "Jimmy" Carter in 1977 which consisted of lawyers and community members tasked with recommending judicial nominees "solely on merit." See Larry C. Berkson et. al, *A Study of the U.S. Circuit Judge Nominating Commission: Findings, Conclusions, and Recommendations*, 63 JUDICATURE 104, 105 (1979) (providing background on the Carter Commission and describing President Carter's two justifications for its establishment: "to select circuit judges on the basis of professional merit, without regard to traditional partisan considerations; and to correct past discrimination by affirmatively seeking women and members of minority groups for the bench."). The Carter Commission is no longer active.

30. Judge Ezra July 17 Comments, *supra* note 4.

31. *David Alan Ezra*, BALLOTPEdia, https://ballotpedia.org/David_Alan_Ezra [<https://perma.cc/86EA-9ARU>]; *Judge Ezra Short Biography*, *supra* note 3.

Judge Ezra has heard cases spanning a diverse array of issues: sea turtle conservation,³² a fourteen-year-long dispute over unmet special education requirements,³³ a Title IX case for a girls' high school softball team,³⁴ and a motion for preliminary injunction that could have prevented the Cassini probe from launching and exploring Saturn, had Judge Ezra not denied the motion.³⁵ The cases he heard were not limited to the District of Hawaii; Judge Ezra helped tackle the Ninth Circuit's heavy caseload by hearing cases in district courts throughout the western United States.³⁶

Judge Ezra has served the federal judiciary as a member of the U.S. Federal Judges Association, Judicial Council of the Ninth Circuit, President of the U.S. District Judges Association, and—upon election by his peers and circuit judges—the Judicial Conference of the United States.³⁷ The Judicial

32. See *Leatherback Sea Turtle v. Nat'l Marine Fisheries Serv.*, No. 99-00152 DAE, 1999 WL 33594329, at *18 (D. Haw. Oct. 18, 1999) (stating “a carefully tailored injunction . . . [was] warranted” in a dispute over whether longline fishing threatened leatherback sea turtles); see also *Court Finds Longline Fishery Violating Environmental Law*, EARTHJUSTICE (Oct. 20, 1999), <https://earthjustice.org/news/press/1999/court-finds-longline-fishery-violating-environmental-law> [<https://perma.cc/37Y8-UWMB>] (reporting on Judge Ezra's *Leatherback Sea Turtle* decision).

33. Linda Jacobson, *Many Hawaii Schools to Miss Disabled-Services Deadline*, EDUC. WEEK (June 21, 2000), <https://www.edweek.org/ew/articles/2000/06/21/41hawaii.h19.html> [<https://perma.cc/CH4U-2H8N>].

34. The Baldwin High School girls' softball team sued Maui County and the State of Hawaii for sex discrimination due to being forced to practice on poorly maintained terrain while the boys' team practiced in “pristine” facilities; Judge Ezra stated the discrepancy violated federal law and ordered the government to remedy the disparity. Curtis Lum, *Baldwin Softball Will Get New Field*, HONOLULUADVERTISER.COM (Apr. 8, 2010), <http://the.honoluluadvertiser.com/article/2010/Apr/08/Hn/hawaii4080344.html> [<https://perma.cc/5LWM-KMKC>]; see also *Title IX Anniversary—40 Years of Fighting Gender Biases in Our Schools*, ACLU HAW., <https://acluhi.org/en/events/title-ix-anniversary-40-years-fighting-gender-bias-our-schools> [<https://perma.cc/6DLX-SLNH>] (“As a result of the settlement, \$1 million was provided to construct a new softball field on Baldwin's campus Lahainaluna High School, Moanalua High School, Nanakuli High School and Molokai High School will also see improvements to their softball facilities pursuant to Title IX.”).

35. See generally *Haw. Cnty. Green Party v. Clinton*, 980 F. Supp. 1160 (D. Haw. 1997); see also Bruce Dunford, *Opponents Try to Halt Cassini*, AP NEWS (Oct. 14, 1997), <https://apnews.com/4de4be6dbd97d1771b8b6ee59e9055e4> [<https://perma.cc/VH72-BUNK>] (covering the controversy surrounding the probe's launch, parties' statements, and Judge Ezra's role).

36. At the time of Judge Ezra's appointment to the federal bench in Hawaii, the case load was insubstantial, and due to his extensive complex litigation experience, the Chief Judges of the Ninth Circuit asked the young Judge Ezra to sit in various District Courts within the Ninth Circuit to help out. Additionally, Judge Ezra holds the record for the most sittings by any judge ever by designation in the Ninth Circuit by sitting three-times per year for over thirty years. Audio tape: Phone Call Between Lance Kimbro and Judge David Ezra (July 10, 2020) (on file with author) [hereinafter Judge Ezra July 10 Comments].

37. *Ezra, David Alan*, FED. JUD. CTR., <https://www.fjc.gov/history/judges/ezra-david-alan> [<https://perma.cc/4G7Z-VZUJ>]; see also *About the Judicial Conference*, U.S. CTS., <https://www.us>

Conference, presided over by the Chief Justice of the Supreme Court, is “the national policy-making body for the federal courts.”³⁸ The Judicial Council unanimously elected Judge Ezra to the Ninth Circuit, influenced by Ezra’s deep involvement and interest in advisory committees throughout the Ninth Circuit. Upon recommendation by the other judges, Chief Justice Rehnquist appointed Ezra to the conference. Judge Ezra served on the conference from 2002 to 2005.³⁹

In 2012, due to an overwhelming caseload and vacancy in the Western District of Texas, Chief Justice John Roberts approved of Judge Ezra’s appointment to serve as a senior United States District Judge with chambers in San Antonio.⁴⁰ Judge Ezra has handled high-profile cases in San Antonio, including controversies related to post petition wages in bankruptcy,⁴¹ misappropriation of trade secrets,⁴² and the COVID-19 pandemic.⁴³ In addition to serving the Western District of Texas, Judge Ezra continues to serve the Ninth Circuit as a visiting judge three times a year.

Considering courts across the nation often turn to him for help, it is apparent Judge Ezra has a talent for fostering and maintaining memorable relationships with fellow judges. The Justices on the United States Supreme Court are no exception. Judge Ezra’s relationship to then-Chief Justice Rehnquist developed through common connections, including their

courts.gov/about-federal-courts/governance-judicial-conference/about-judicial-conference [https://perma.cc/SP8B-M9W5] (providing general information about the Judicial Conference).

38. *About the Judicial Conference*, *supra* note 37.

39. *Judicial Conference of the United States: Members*, FED. JUD. CTR., <https://www.fjc.gov/history/administration/judicial-conference-united-states-members> [https://perma.cc/KR4W-DLF7]; see Judge Ezra October 23 Comments, *supra* note 29 (indicating Judge Ezra started serving on the conference in 2002, as verified by his office plaque).

40. Guillermo Contreras, *Hawaiian Judge Coming to Alamo City*, MY SAN ANTONIO (Dec. 25, 2012), https://www.mysanantonio.com/news/local_news/article/Hawaiian-judge-coming-to-Alamo-City-4145437.php [https://perma.cc/3W3J-5EUL]; *Senior U.S. District Judge David A. Ezra*, *supra* note 3.

41. *In re Harris*, 491 B.R. 866 (W.D. Tex. 2013), *rev'd and remanded*, 757 F.3d 468 (5th Cir. 2014), *rev'd sub nom.* *Harris v. Viegela*, 575 U.S. 510 (2015), and *aff'd*, 608 Fed. Appx. 252 (5th Cir. 2015).

42. *Educ. Mgmt. Services, LLC v. Tracey*, 102 F. Supp. 3d 906 (W.D. Tex. 2015).

43. *Diesel Barbershop, LLC v. State Farm Lloyds*, 5:20-CV-461-DAE, 2020 WL 4724305, at *1 (W.D. Tex. Aug. 13, 2020); Patrick Danner, *Federal Judge Tosses San Antonio Barbershops' Lawsuit Against State Farm Over COVID-19 Losses*, SAN ANTONIO EXPRESS-NEWS (Aug. 14, 2020), <https://www.expressnews.com/business/article/Federal-judge-tosses-San-Antonio-barbershops-15482649.php> [https://web.archive.org/web/20201004183842/https://www.expressnews.com/business/article/Federal-judge-tosses-San-Antonio-barbershops-15482649.php].

connection to St. Mary's University School of Law.⁴⁴

II. JUDGE EZRA AND CHIEF JUSTICE REHNQUIST

Chief Justice Rehnquist was an attorney and scholar of outstanding accomplishment, remembered as “one of the most successful Chief Justices of the Supreme Court of the United States.”⁴⁵ Born in Milwaukee in 1924, Rehnquist attended public schools throughout his childhood and later moved to Ohio to attend Kenyon College on a scholarship, before his studies were interrupted by World War II.⁴⁶ Rehnquist completed his undergraduate studies at Stanford University after the war.⁴⁷ He continued his education by completing a master's degree in political science at Stanford and then moved to Cambridge, Massachusetts to complete another master's degree in government at Harvard University.⁴⁸ Rehnquist then moved back to the west coast to complete law school at Stanford—where he graduated at the top of his class—along with Justice Sandra Day O'Connor.⁴⁹

After spending time at the Supreme Court of the United States clerking for Justice Robert Jackson, Rehnquist moved to Arizona to work in private practice for sixteen years.⁵⁰ In 1969, Rehnquist relocated to Washington,

44. St. Mary's University, School of Law is located in San Antonio, Texas and was named “A best value private law school” by *The National Jurist*. *About St. Mary's Law*, ST. MARY'S UNIV. SCH. OF L., <https://law.stmarytx.edu/academics/about/> [<https://perma.cc/N24U-AHBB>]. Additionally, St. Mary's Law houses some of the country's top advocacy programs, including the nationally ranked Moot Court Advocacy team. *Id.*

45. See *William H. Rehnquist*, OYEZ, https://www.oyez.org/justices/william_h_rehnquist [<https://perma.cc/9BH8-7CP4>] (placing the mention of his name next to the likes of Chief Justice John Marshall).

46. Linda Greenhouse, *William H. Rehnquist, Chief Justice of the Supreme Court, is Dead at 80*, N.Y. TIMES (Sept. 4, 2005), <https://www.nytimes.com/2005/09/04/politics/william-h-rehnquist-chief-justice-of-supreme-court-is-dead-at-80.html> [<https://perma.cc/YDZ2-JF5Y>].

47. See *William H. Rehnquist*, *supra* note 45 (documenting Chief Justice Rehnquist's academic pursuits).

48. Greenhouse, *supra* note 46.

49. Chief Justice Rehnquist graduated at the top of his Stanford Law School class in 1952, only two places behind him in ranking was “his fellow law student and friend” who would later become the first female Supreme Court Justice in history, Sandra Day O'Connor. *Biography*, SANDRA DAY O'CONNOR INSTITUTE, <https://oconnorinstitute.org/civic-programs/oconnor-history/sandra-day-oconnor-policy-archives-research-library/biography/> [<https://perma.cc/BLU9-HL8E>]; see *William H. Rehnquist, 1972–1986, 1986–2005*, THE SUP. CT. HISTORICAL SOC'Y, https://www.supremecourthistory.org/timeline_rehnquist.html [<https://perma.cc/Y6RL-7MBL>] (describing Rehnquist as “the outstanding student of his generation.”).

50. *William H. Rehnquist*, *supra* note 45.

D.C. to serve as deputy attorney general under President Richard Nixon, who would later nominate Rehnquist to be an Associate Justice of the Supreme Court of the United States.⁵¹ President Reagan, in a manifestation of complete approval, appointed Rehnquist to fill the vacant Chief Justice position after Chief Justice Warren Burger retired in 1986.⁵² Rehnquist was often called the “lone ranger” during his Supreme Court tenure, a nickname earned for his repeated solitary dissents.⁵³

After Judge Ezra’s unanimous appointment to the Judicial Conference of the United States,⁵⁴ he and the other conference-members were invited to enjoy breakfast with the sitting Chief Justice, who at this time was Chief Justice Rehnquist.⁵⁵ At this first meeting in 2003, it was clear that Chief Justice Rehnquist read through the biographies of new conference-members as he welcomed Judge Ezra with a warm and enthusiastic “Aloha, David!”⁵⁶ This recognition was not solely because Judge Ezra is the youngest ever appointed federal judge in Hawaii, or because Judge Ezra was also the longest serving active federal judge in Hawaii, but because Judge Ezra is a St. Mary’s Law School Alumni.⁵⁷ Chief Justice Rehnquist continued welcoming Judge Ezra by stating: “It is really good to have you here, David, not only as a representative of the Ninth Circuit, but as a young judge representing St. Mary’s Law, which we have not had [in this

51. See Greenhouse, *supra* note 46 (touting Chief Justice Rehnquist as “a polarizing figure, the symbol of the president’s determination to dismantle the liberal legacy of the Warren Court”).

52. *Id.*

53. *William H. Rehnquist*, *supra* note 45; see Greenhouse, *supra* note 46 (proclaiming Rehnquist’s dissenting language as “pithy” and “futile” and providing the example: “The existence of the death penalty in this country is virtually an illusion . . . virtually nothing happens except endlessly drawn out legal proceedings”).

54. During this time, Judge Ezra sat in the district court of San Diego, the district court in Boise, Idaho, and on the Ninth Circuit Court of Appeals. *Judge Ezra Short Biography*, *supra* note 3; see *Governance & The Judicial Conference*, U.S. CTS., <https://www.uscourts.gov/about-federal-courts/governance-judicial-conference> [<https://perma.cc/6728-YG4G>] (detailing the Judicial Conference’s purpose as a “national policy-making body for the federal courts”).

55. Chief Justice William Rehnquist was the sixteenth Chief Justice of the United States Supreme Court. He passed away on September 3, 2005. Brian P. Smehtkowski, *William Rehnquist*, BRITANNICA, <https://www.britannica.com/biography/William-Rehnquist> [<https://perma.cc/5LTK-W4G7>].

56. Judge Ezra July 10 Comments, *supra* note 36.

57. Judge David Ezra graduated from St. Mary’s Law School in 1972 at the top of his class, *Magna Cum Laude*. See *Judge Ezra Short Biography*, *supra* note 3 (noting Judge Ezra as the youngest judge appointed to the Federal Bench Hawaii and the longest-serving active federal judge in Hawaii); *St. Mary’s Portrait of Chief Judge Ezra*, *supra* note 2; Judge Ezra July 10 Comments, *supra* note 36.

conference] before.”⁵⁸ In addition to their St. Mary's connection, the two had many close friends.⁵⁹ Moreover, the Chief Justice was from Arizona, where Judge Ezra also currently sits, and has done so for over two decades.⁶⁰

After this introduction, Chief Justice Rehnquist invited Judge Ezra to take (arguably) the best seat in the house—directly across the breakfast table from his own seat. This was a particularly noticeable placement because many of the other conference-members were more senior to Ezra,⁶¹ who was only 56 years of age at the time. The conversation between Chief Justice Rehnquist and Judge Ezra ensued throughout breakfast and covered many topics including the esteem and respect Chief Justice Rehnquist had for St. Mary's University School of Law.⁶² At one point, Chief Justice admitted: “I think very highly of St. Mary's and the professors I have met there, and it is a delight to have you here.”⁶³ Only after again drawing this connection to St. Mary's did the Chief Justice mention that he had “not had the chance to spend much time in Hawaii but would love to have an opportunity to talk about it.”⁶⁴ Seemingly, Judge Ezra's accomplishments as a federal judge in Hawaii took a backseat to his accomplishments as a St. Mary's Law graduate in the eyes of Chief Justice Rehnquist.

Judge Ezra's position at this breakfast table remained unchanged for his three-year term on the Judicial Conference.⁶⁵

58. Judge Ezra July 10 Comments, *supra* note 36.

59. One such mutual friend is the late Chief Judge of the Ninth Circuit: Richard Chambers. Judge Ezra October 23 Comments, *supra* note 29.

60. The two would also discuss cases Judge Ezra was handling in Arizona; specifically, the Chief Justice was curious about immigration cases along the Arizona–Mexico border. Judge Ezra October 23 Comments, *supra* note 29. Judge Ezra currently sits as a visiting judge in Tucson and Phoenix, Arizona. See *Judges' Information: Visiting Judges*, U.S. D. DIST. OF ARIZ. (Jan. 17, 2014), <http://www.azd.uscourts.gov/sites/default/files/documents/visitingjudges.pdf> [<https://perma.cc/S9KT-FRC2>] (listing judges “assigned [to] civil cases in the District of Arizona”).

61. See Judge Ezra July 10 Comments, *supra* note 36 (stating Judge Ezra was the youngest federal judge to be appointed to the Judicial Conference).

62. *Id.*

63. See *id.* (recognizing Judge Ezra as the first and only St. Mary's Law School alumni to serve on the Judicial Conference).

64. *Id.*

65. See *id.* (recognizing the seating arrangement for this pre-conference breakfast was based on Chief Justice Rehnquist's request and Judge Ezra's position directly across from Chief Justice was consistent throughout his appointment to the conference).

III. CHIEF JUSTICE REHNQUIST'S CONNECTION TO ST. MARY'S SCHOOL OF LAW

Chief Justice Rehnquist's relationship to St. Mary's was reignited through an introduction from one of his former Supreme Court Fellows, Professor Vincent Johnson.⁶⁶ Professor Johnson reached out to Chief Justice Rehnquist in 1991, inviting him to teach in the St. Mary's Institute on World Legal Problems, a summer program held annually in the Alps of Innsbruck, Austria.⁶⁷ Chief Justice Rehnquist spent two weeks during the summer of 1991 lecturing to roughly 120 students from St. Mary's and other American law schools about the Supreme Court in United States history,⁶⁸ and spent time outside of class interacting with students and faculty.⁶⁹

Chief Justice Rehnquist liked Innsbruck and was eager to return to teach again in the summers of 1994, 1998, and 2000.⁷⁰ It was a great escape from the heat of Washington, D.C.⁷¹ As Judge Ezra noted:

A Supreme Court Justice can go *anywhere* during their summer. All law schools have programs and would be thrilled to have someone of Chief Justice

66. Prior to Professor Johnson's reaching out to request Chief Justice Rehnquist's attendance at the Innsbruck Summer Program, Rehnquist had visited St. Mary's in the late 1970's. See Charles E. Cantú, *An Oral History of St. Mary's University School of Law (1961-2018)*, 50 ST. MARY'S L.J. 309, 336–337 (2019) (mentioning Chief Justice Rehnquist's visit to the St. Mary's Law campus). Professor Vincent Johnson was a Supreme Court Fellow from 1988–1989. See Fellows Program, *Current & Past Fellows*, SUP. CT. OF THE U.S., <https://www.supremecourt.gov/fellows/SupremeCourtFellows.aspx> [<https://perma.cc/3TCH-YQCY>] (documenting the past and present Supreme Court Fellows); see *Biography of Vincent R. Johnson*, ST. MARY'S SCH. L., <https://law.stmarytx.edu/academics/faculty/vincent-johnson/> [<https://perma.cc/Y7Q6-CX43>] (recognizing Professor Johnson's time "assist[ing] Chief Justice William H. Rehnquist with his duties as head of the federal judiciary.").

67. *Innsbruck, Austria Summer Study Abroad Program*, ST. MARY'S SCH. OF L., <https://law.stmarytx.edu/academics/special-programs/austria/> [<https://perma.cc/4RNF-D8MF>].

68. Vincent R. Johnson, *Tribute, Rehnquist, Innsbruck, and St. Mary's University*, 38 ST. MARY'S L.J. 1, 2–3 (2006) ("During my twelve years as director of the Innsbruck law program (1989–2001), I did my best to persuade Chief Justice Rehnquist to think of Innsbruck as an occasional, and hopefully regular, summer residence.").

69. *Id.* at 30–32 (recounting, on one visit to Innsbruck, "Rehnquist drove four faculty members on an all-day car trip," and accepted invitations to attend a concert and to go see a late Stone Age "iceman" with the faculty).

70. *Id.* at 2.

71. See *id.* at 8–9 (suggesting Rehnquist viewed Innsbruck more as a "summer home" inferred through his consistent willingness to spend his summers teaching and visiting with St. Mary's students and faculty and is further enforced through him bringing his family during his last visit in 2000. Rehnquist committed to attending the Innsbruck summer program again in 2003, but "infirmities of age intervened," unfortunately).

Rehnquist's prominence involved; instead, he went multiple times to the Innsbruck program because of his personal affection and respect for St. Mary's Law School, students, and professors.⁷²

In one conversation, Chief Justice Rehnquist told Judge Ezra: "I have done many programs with St. Mary's because I think so highly of the school and everyone I have worked with there. They all have treated me so well, and I have enjoyed interacting with the students—they have all been receptive and bright."⁷³ Rehnquist's affinity for the Innsbruck program was so great that upon receiving an invitation to participate in the Summer 2000 program, he responded with a message noting he had tentatively agreed to participate in the American Bar Association (ABA) meeting in London, but informed Professor Johnson in his response: "If I could not do both at the same time, I would probably choose Innsbruck over London."⁷⁴

IV. FOSTERING A RELATIONSHIP

The relationship between Chief Justice Rehnquist and St. Mary's Law School initiated a lasting personal relationship between the Chief Justice and Judge Ezra.⁷⁵ Notwithstanding Judge Ezra's impressive resume that opened the door for him to "have a seat at the table" at the Judicial Conference, Rehnquist's familiarity with and recent involvement in the Innsbruck Summer Program prompted a warm welcome and the start of their personal relationship.⁷⁶ In fact, Judge Ezra made sure to let the Chief Justice know when he was visiting Washington D.C. so the two could get together.⁷⁷ Even before the start of Judicial Conference meetings, the Chief Justice would privately ask Judge Ezra's thoughts about several pending discussion topics.⁷⁸ Judge Ezra's experience with the Federal Judges Association and the trust the two developed throughout their interactions both allowed these confidential discussions to flourish.

As a fellow cancer survivor, Judge Ezra became Chief Justice Rehnquist's confidant for various benefit-related questions after Rehnquist's

72. Judge Ezra July 10 Comments, *supra* note 36.

73. *Id.*

74. See Johnson, *supra* note 68, at 5 n.17.

75. See *supra* text accompanying note 62–63.

76. See *supra* text accompanying note 54–5.

77. Judge Ezra July 10 Comments, *supra* note 36.

78. *Id.*

thyroid cancer diagnosis.⁷⁹ Chief Justice Rehnquist even made known to his close friends that he had these discussions with Judge Ezra, proclaiming: “I am calling Dave Ezra because he knows all about these benefits.”⁸⁰

V. CONCLUSION

While St. Mary's was not one of his alma maters, Chief Justice Rehnquist developed a love and appreciation for St. Mary's University comparable to that of an alumnus. The friendship between the Chief Justice and Judge Ezra thrived until Chief Justice's passing in 2005.⁸¹ Judge Ezra fondly remembers his conversations with Chief Justice Rehnquist, the final one occurring only weeks before the Chief Justice's passing.⁸² Chief Justice Rehnquist's fond memories of Innsbruck were shared by several of his colleagues who also taught for St. Mary's in Innsbruck, including Justices Antonin Scalia (1992, 1993), John Paul Stevens (1993), Ruth Bader Ginsburg (1995), and Sandra Day O'Connor (2001 and 2004); additionally, after Chief Justice Rehnquist's death, Chief Justice John Roberts (2008) and Justices Samuel Alito (2009) and Clarence Thomas (2013).⁸³

79. *Id.*

80. *Id.* While St. Mary's was the starting point of their relationship, Judge Ezra's wealth of experience both as a judge and an accomplished attorney reinforced their friendship. *Id.*

81. Greenhouse, *supra* note 46.

82. Judge Ezra July 10 Comments, *supra* note 36.

83. See Johnson, *supra* note 68, at 20 n.68; *U.S. Supreme Court Justice Visits Law School*, ST. MARY'S UNIV. (Apr. 3, 2009), <https://www.stmarytx.edu/2008/u-s-supreme-court-justice-visits-law-school/> [<https://perma.cc/4E3T-Q58A>]; *Alito Headlines Innsbruck Summer School*, LAWNOTES (St. Mary's Univ. Sch. of Law, San Antonio, Tex.), Spring 2009, at 8, <https://commons.stmarytx.edu/cgi/viewcontent.cgi?article=1014&context=lawnotes> [<https://perma.cc/8CJW-U7CN>]; *Travel Europe and Study Law at the University of Innsbruck Institute on World Legal Problems*, ABA STUDENT LAW. MAG. (2012) (on file with author) (advertising “Distinguished Visiting Jurist Justice Clarence Thomas” for the 2013 Innsbruck program); Email from Professor and Innsbruck Director Mark Cochran to Taylor Newman (Nov. 9, 2020) (on file with author) (confirming the visiting dates for Chief Justice Roberts and Justices Alito and Thomas). Judge Ezra also had a close relationship with the late Justice Antonin Scalia, who told Ezra his decision to teach at St. Mary's Innsbruck Summer Program was prompted by Chief Justice Rehnquist's recommendation. Judge Ezra July 10 Comments, *supra* note 36.