



**BenchMarks:**  
**Michael Smith**  
**Superior Court Judge,**  
**County of San Bernardino**

by Ed Butler

**J**udge Michael A. Smith brings an easy going, unassuming demeanor to the job of presiding over sometimes high profile long cause criminal trials in San Bernardino County Superior Court.

Exemplifying a relaxed but focused approach, he stood robeless at his bench one recent morning to conduct a settlement conference on a lawsuit to recover assets forfeited in a criminal investigation.

Having won high marks from both prosecuting and defense attorneys in his now 18 ½ years on the Central District bench, Judge Smith was singled out in 2002 for the prestigious Kaufman-Campbell Award bestowed by the San Bernardino County Bar Association. Each year it chooses one judge deemed especially exemplary by the association membership.

Always having presided at the San Bernardino courthouse, Judge Smith was recently shifted from long cause civil and criminal to long cause criminal only.

A native of Los Angeles, Judge Smith says his interest in the law was sparked by watching television courtroom dramas, such as Perry Mason, growing up in Commerce and mostly Monterey Park. He fueled this interest by participating in the speech and debate program

at Mark Keppell High School in Alhambra and also competing on the debate team at California State University, Los Angeles.

His father worked in inspection for quality control at North American Aviation, later Rockwell, in the manufacture of parts for both the military and the space program. His mother's pursuits included those of dress shop owner, union representative and Allstate Insurance agent.

His favorite pastimes as a youth included attending football games and going to the beach.

Both as a high school and university student, he labored on the side as box boy and produce clerk at Crawford's Market in Alhambra. The work scheduling was flexible, accommodating his school schedule.

Demonstrating his capacity to sink his teeth into weighty matters, as a political science major at Cal State he squeezed his four-year baccalaureate program into three years, while finding time for the debate team, Crawford's Market and Pi Sigma Alpha, national honorary political science fraternity.

Then it was on to three years at the University of San Diego School of Law, where he was a member of Phi Delta Phi and competed in moot court.

During law school he helped ready himself for advocacy by clerking at Sankary and Sankary in San Diego and Lester Blanchard in Los Angeles, both in personal injury litigation. He found this experience was valuable in such things as settling cases and organizing discovery.

As he awaited bar results in the latter half of 1974, he continued his clerking at the San

Bernardino County district attorney's office, which was to be his practice home for his full 12-year career as an advocate.

As a prosecutor, his career began with misdemeanors, and continued with juvenile crime, general felonies and career criminals. He spent several years prosecuting major felonies, including homicide and death penalty cases, and also served as legal counsel to the county grand jury.

Toward the end of his prosecutorial career, he served as co-founder and president of the County Prosecutors Association. At that time a drive was under way to set up a more specialized labor bargaining unit for attorneys employed by the county.

When 1986 rolled around, the opportunity arrived to run for an open Superior Court judgeship occasioned by the retirement of Judge Roy E. Chapman. Judge Smith says the thing that attracted him about judging remains his main gratification from it: "Being responsible for making the right decision (as opposed to advocating one side). That was appealing." He admits to missing advocacy at times.

Judge Smith won that 1986 election and three elections since.

He has presided mostly over criminal matters, both calendar and trial work, and until recently his was one of three Central District departments devoted to both civil and criminal long cause trials. He also has had probate and guardianship assignments.

Judge Smith echoes the often touted problem of San Bernardino County having to funnel too many cases through too few court departments. Noting that judges' caseloads in this county are double and triple those of others in other California counties, he says "There is a constant crunch to get cases out as quickly as possible." He says this circumstance does not prejudice the position of criminal defendants because resource deficiencies, in combination with legal time limits, can result in extra negotiating leverage for the defendant. He urges that more judges and courtrooms be provided.

As for design shortcomings at the Central District courthouse, "it has gotten to be second nature" to time courtroom arrivals carefully to accommodate escort of "in custody" defendants down public hallways. Jurors need to be inside the courtroom before escorting of defendants that would give them prejudicial views of defendants in shackles before entering the courtroom. Tardiness on the part of any of the players can create delays.

In light of pending legislation that might get the county 23 more judges over three years, Judge Smith was asked to suggest characteristics that an effective judge should have. He says it would be good for such prospects to have trial experience, to have good knowledge of the evidence code, and good people skills.

As for general advice to attorneys appearing in his court, Judge Smith likes them to be knowledgeable about their case, including facts and legal issues, and to have legal authority for positions advocated on legal issues. Also, the advocate should have all his exhibits ready and be punctual.

As another facet of his professional life, Judge Smith continues to teach a criminal law class online for the University of Phoenix.

He and his wife, Barbara, a local primary school teacher, have three children, a son and twin daughters.

Off work, Judge Smith enjoys photography, examples of which decorate his chambers, Texas hold 'em poker, and relaxing home evenings.

*Ed Butler is Rancho Cucamonga branch manager of the Law Library for San Bernardino County.*



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