



Raymond J. Broderick

Born: May 29, 1914, in Philadelphia, Pennsylvania

Died: August 6, 2000, in Gladwyne, Pennsylvania

Federal Judicial Service:

Judge, U.S. District Court for the Eastern District of Pennsylvania

Nominated by Richard M. Nixon on March 23, 1971, to a new seat authorized by 84 Stat. 294.

Confirmed by the Senate on April 21, 1971, and received commission on April 23, 1971.

Assumed senior status on July 1, 1984.

Service terminated on August 6, 2000, due to death.

Education:

University of Notre Dame, A.B., 1935

University of Pennsylvania Law School (now Carey Law School), J.D., 1938

Professional Career:

Assistant Counsel, U.S. Rural Electrification Administration: 1938-1941

Civilian Agent, Office of Naval Intelligence, U.S. Navy: 1941-1942

U.S. Naval Reserve Lieutenant Commander: 1942-1946

Private Practice, Philadelphia, Pennsylvania: 1945-1971

Commissioner, Plymouth Township, Montgomery County, Pennsylvania: 1952-1954

Lieutenant Governor, Pennsylvania: 1967-1971

President, Pennsylvania Senate: 1967-1971

Cabinet Member, Gov. Raymond P. Shafer, Pennsylvania: 1967-1971

*

*

*

Judicial Biography

*In 1971, President Richard M. Nixon nominated Raymond J. Broderick, Clarence C. Newcomer, and Clifford Scott Green to the Court. Broderick, a Philadelphian who had been a Naval Officer during World War II, was Lieutenant Governor of Pennsylvania between 1967 and 1971 under Governor Raymond P. Shafer. During his tenure, Broderick was the president of the 1967-1968 Pennsylvania Constitutional Convention which reformed the state Constitution's Judiciary Article and provided for a unified court system for the Commonwealth. After he was defeated for Governor in 1970, Senator Scott and other Republican leaders endorsed him to fill a vacancy on the District Court. While on the federal bench, Broderick successfully persuaded Congress to allow compulsory arbitration of smaller damage cases before a panel of court appointed lawyers with the right of a trial *de novo* in the District Court if any party is not satisfied with the arbitration result. He had a memorable Irish wit, and there was no better storyteller.

For many years Broderick and his lovely wife Marjorie graciously hosted a summer outing for the judges and their spouses at their beachfront home in Ocean City, New Jersey. The event always included swimming in the ocean, a sumptuous meal featuring steaks cooked on their outdoor grill, and an abundance of good fellowship. On June 25, 1999, about a year before his death, Broderick wrote a poignant letter to his fellow judges and their spouses:

Marjorie and I are finding it difficult to tell you that there will not be a beach party on the Broderick sand dunes this summer. Recently Marjorie and I have been experiencing some health problems.

- - -

For more than twenty years, our Judges' day on the beach on the Broderick dunes has been the focal point of our love for you and your family. We are saddened by this interruption.

Marjorie and I look forward to seeing you soon.

Sincerely,
Ray

Judge Broderick told an amusing story about his friend Judge Clifford Green, which he repeated often and which Judge Green continued to recount after Judge Broderick's death. When Broderick was running for state-wide office, he noticed in reviewing the election returns that he had received only one vote in the home division of Clifford and Mable Green in West Philadelphia. When Broderick asked Clifford Green about it, Green insisted that he had indeed

* The following material is excerpted from JUDGE HARVEY BARTLE, III, MORTALS WITH TREMENDOUS RESPONSIBILITIES, A HISTORY OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, 3-12 (Saint Joseph's University Press, 2011). Reproduced with the permission of the author, Judge Harvey Bartle, III, and the publisher, Saint Joseph's University Press.

voted for Broderick. When Broderick inquired of Mable Green, she responded emphatically that she was the one who had cast the ballot for him. The matter, of course, was never resolved, but the story always generated laughter among the judges.

In 1971, Frank Rizzo, the former Philadelphia Police Commissioner, was running for mayor. He publicly announced during the campaign that within the framework of the law, he would support communities in their resistance to public housing. Elected mayor in November 1971 and taking office in January 1972, he accelerated his vociferous opposition to the Whitman Park Project. He declared he would not allow public housing to ruin neighborhoods or to be placed in white neighborhoods where whites did not want African-Americans moving near them.

In the meantime, with the project stalled with the complicity of City officials, a group of plaintiffs filed a class action in the federal court in June 1971, claiming violations of their rights under the Constitution and various federal civil rights laws. The lawsuit was hotly contested and hard fought. It was finally tried by Judge Broderick for fifty-seven days in 1976. In ruling in favor of the plaintiffs, he found that the City had acted with racially discriminatory intent in opposing and obstructing the Whitman Park Project to prevent African-Americans from living in that neighborhood. He ordered the City and various local and federal agencies to “take all necessary steps for the construction of the Whitman Park Townhouse Project as planned.” He also enjoined interference “in any manner” with its construction. The Court of Appeals affirmed Judge Broderick’s findings of discriminatory intent and modified only slightly the injunctive relief he had granted.

On October 3, 1979, Pope John Paul II was scheduled to visit Philadelphia and celebrate a Roman Catholic Mass before an estimated one million people. The City of Philadelphia was in the process of designing and constructing a large platform at Logan Circle above the Swann Fountain to accommodate the Pope, Bishops, and other clergy for the Mass. The platform was to contain an altar and a thirty-six-foot cross supplied by the Archdiocese of Philadelphia.

A group of plaintiffs brought suit to enjoin the City from using public funds for the platform on the ground that such an expenditure violated the Establishment of Religion Clause of the First Amendment. Before the hearing, in return for the plaintiffs’ agreeing not to seek an injunction, the Archdiocese consented to reimburse the City for its construction and design costs should the plaintiffs prevail. The case was randomly assigned to Judge Broderick, a staunch Roman Catholic. After reviewing the history and purpose of the First Amendment, he ruled that the actions of the City were unconstitutional under the *Lemon* test in that they had no secular purpose or effect and caused excessive entanglement between government and religion by promoting divisiveness between and among religious groups. Judge Broderick explained:

We find that, under the facts presented in this case, the actions of the City of Philadelphia in constructing and decorating the platform amount to public sponsorship of a religious service. The secular purposes expressed by the City are incidental to this non-secular purpose. The beauty of the service, and its appeal to millions of people, Catholics and non-Catholics alike, cannot overcome the fact that the expenditure of public funds for items necessary to the service crossed the “wall of separation” mandated by the Constitution.

The Court of Appeals affirmed, and the Archdiocese thereafter reimbursed the City in the amount of \$204,569.

Judge Broderick presided over *Halderman v. Pennhurst State School & Hospital* a significant case involving the rights of developmentally disabled individuals. The Commonwealth of Pennsylvania owned and operated Pennhurst State School and Hospital in Chester County. It housed approximately 1,200 residents of whom approximately 75% were either severely or profoundly retarded. Many were also physically handicapped. Plaintiff, a resident of Pennhurst, claimed in her lawsuit that unsanitary, inhumane, and dangerous conditions prevailed there. She asserted that these conditions violated her rights to due process and equal protection under the Fourteenth Amendment and her rights under various federal and state statutes, including the Developmentally Disabled Assistance and Bill of Rights Act of 1975.

Judge Broderick, after a thirty-two day non-jury trial, found not only that conditions at Pennhurst were dangerous but that it was totally inadequate for the education and training of the mentally retarded and others who were not ill. Some residents had even been physically abused and improperly drugged. Judge Broderick ruled that the residents had a constitutional right to “minimally adequate” and “non-discriminatory habilitation” and “in the least restrictive” environment, and that they had a constitutional right “to be free from harm” under the Eighth Amendment. He ordered that Pennhurst eventually be closed, that appropriate “community living arrangements” be provided, and that individual treatment plans be developed.

The Court of Appeals affirmed but rested its decision on statutory rather than on constitutional grounds. However, it overturned the order that Pennhurst be closed. The case then reached the Supreme Court. According to the high Court, there was nothing in federal law which required Pennsylvania to “assume the high cost of providing ‘appropriate treatment’ in the ‘least restrictive environment’ to their mentally retarded citizens.” Congress was simply encouraging, not mandating, that states improve services to the developmentally disabled. The Court remanded the action to the Court of Appeals to consider plaintiffs’ constitutional and other statutory claims. Not surprisingly, further legal proceedings ensued. Fortunately for all concerned, the entire matter was ultimately settled, and Pennhurst closed in 1986.

Thanks to the efforts of Judge Broderick, this Court was in the forefront in adopting an innovative compulsory arbitration program, initially approved by Congress in 1988, whereby certain smaller cases are tried in the first instance by a panel of three lawyers who volunteer to participate in the program and are approved by the Court. Only cases seeking money damages in the amount of \$150,000 or less where no constitutional claim is involved are eligible. The arbitration is less formal than the courtroom setting and usually lasts no more than a few hours at most. A party unhappy with a decision is entitled to a trial de novo before a District Judge, with a jury if one has been demanded.

Judge Broderick assumed senior status on July 1, 1984 and inactive status on June 5, 2000. He passed away on August 6, 2000 in Gladwyne, Pennsylvania at the age of 86.