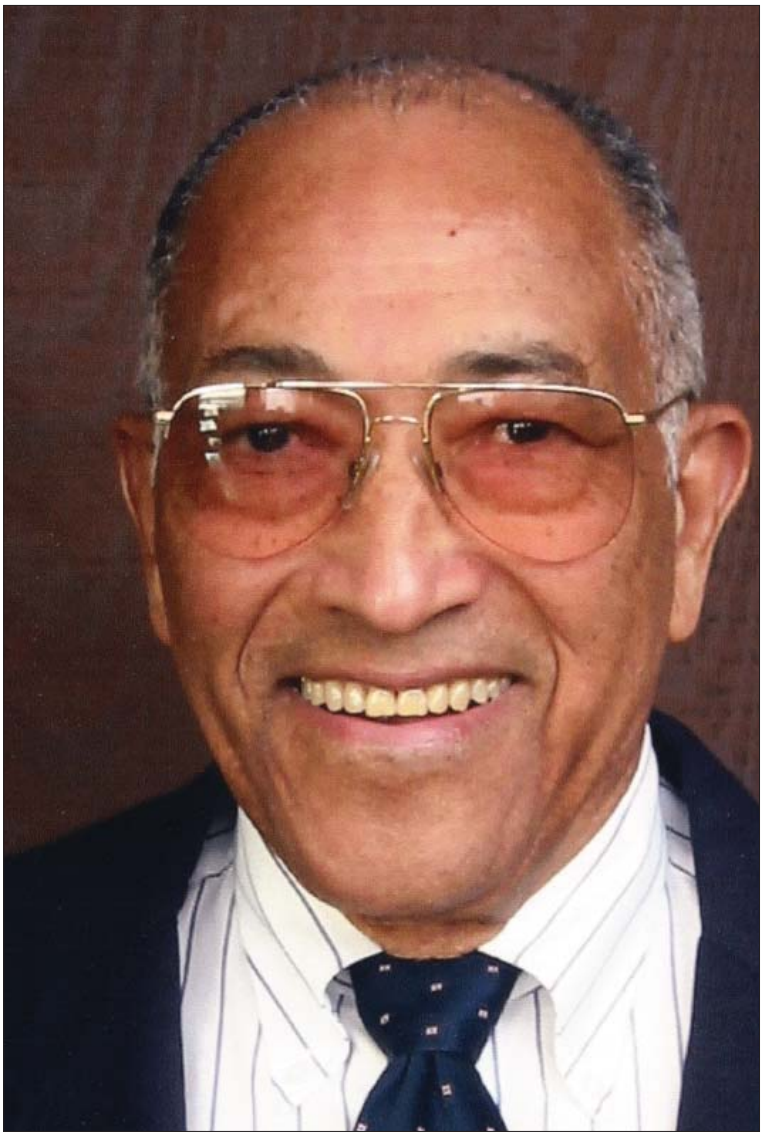
Charles Z. Smith: Trailblazer

An Oral History

2009



Courtesy Carlos Martinez Smith

Washington State Legacy Project

Washington Secretary of State
SAM REED

Charles Z. Smith

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Courtesy Josef Scaylea Photography

Hughes: This is John Hughes with the Secretary of State's Legacy Project at the Temple of Justice in Olympia with retired Justice Charles Z. Smith, the first ethnic minority to serve on the Washington Supreme Court.

For starters, I want to ask you about titles: To my ear, the title "justice" doesn't resonate as much as "judge." Do you object to being addressed as "judge" rather than "justice"?

Smith: "Judge" is the generic word. And justice is subordinate to the generic "judge," so all people who sit in judgment are called judges. In the state of Washington, Supreme Court justices were called "judge" for many years. Then there was a move to coordinate titles with the United States Supreme Court where the judges are called "justice." So there was a move to convert our title from "judge" to "justice." I don't know what year it was. But when I worked as a law clerk in 1955, the Supreme Court justices were called "judge." I worked for Judge Matthew W. Hill. In later years, I referred to him as *Justice* Matthew W. Hill.

Hughes: Is it any breach of decorum for me to call you judge?

Smith: No, none at all.

Hughes: What do you prefer to be called?

Smith: My preference is to have no title at all. … At the same time, it doesn't matter to me, John, whether you say "justice" or "judge."

Hughes: I've met you over the years at some Supreme Court receptions and the like, and I

had long read about your career. It's such a pleasure to interview you.

Smith: Well, the pleasure is mine.

Hughes: Also, as a young reporter I interviewed Justice Hill, for whom you clerked. He was sent on a blue ribbon panel to try to solve the first ever teachers' strike in Washington State in Aberdeen, in 1972. And I found him to be extremely gentlemanly and wise. Meantime, last night I watched for about the third or fourth time Ken Burns' remarkable documentary about baseball, and in particular the segment about Jackie Robinson, and what he went through to break the color barrier in 1947 in Major League baseball. Were you a baseball fan back then?

Smith: Nope. I've never been interested in sports, either observing or participating.

Hughes: Nevertheless, were you aware of that landmark occasion and what it represented?

Smith: Well, living in the United States you become aware of whatever is happening that affects the life of the people, so having been born during a period of American apartheid, the idea of movement in society to change the system that discriminated against people because of who they were has always interested me. And back in the old days, because of the sociologists and the anthropologists and the historians, we thought of our American culture as being blacks and whites. And of course *I* knew that there were more people than blacks or whites because my Cuban father was not white, but he was not black. So I grew up thinking the world consisted of blacks, whites, Cubans and Cherokee Indians because on my mother's side there were Cherokee Indians.

All of that was part of my early beginning, so that when things happened they didn't happen solely on the basis of black/white problems; they happened in terms of white versus non-white. The structure of society was based upon the illogical assumption that whites were superior to anybody else. You know, we get back to the conquest of Africa by the English, and the Holocaust in Germany and the idea that one person is better than somebody else because of where they were born, or who their ancestors were. For me it was always illogical. And so without even thinking about it, this sort of helped me to understand that this is a crazy world, and people make crazy assumptions,

and crazy decisions, and they affect people in so many different ways. But at the same time, not being a white person myself, I never operated under any of these handicaps of personal disrespect for myself. I grew up thinking that I'm very bright, as I still think I am. (Chuckling) After 81 years, I still think there are very few people who are brighter than I am. If you want to discriminate against me, that's your problem and not mine.

Hughes: Given that the election is just four days away, I have to begin by asking you about the state of racial relations in American in 2008, and especially about Senator Barack Obama, who General Colin Powell has just described as "a transformational figure." There's a new generation coming onto the world stage and at a daunting time too. How do you view this?

Smith: Not being identified with either the Republican Party or the Democrat Party, I have neutralized myself, and because of the Hatch Act and because of the judicial code of conduct I have chosen to remain neutral. As you may know, I used to be a commentator for KOMO.

I decided to be neutral there so I could afford to be in favor of this person, be in favor of that person. For example, Secretary of State Sam Reed is a Republican. I absolutely adore him. And it makes absolutely no difference to me whether he's Democrat or Republican. He's Sam Reed the great person that he is. I happen to be in favor of Christine Gregoire. She happens to be a Democrat, but I don't know Dino Rossi.

Now, back to the national scene: One of my favorite people in the world is General Colin Powell. I have the utmost respect for him. And when he was Secretary of State I had the privilege of being in meetings with him where he was in charge, so I became very fond of him. When he decided to publically support Senator Obama I was impressed by the language that he used. He conveyed my thoughts about him – that here is a man who, without reference to the color of his skin, has the intelligence, has the drive, has the insight, has the vision to be a good president. And recognizing that Senator Obama is not a typical African-American in the United States — Hawaii birth is no big deal. My wife was born in Hawaii. So I used to kid her about not being a legal citizen, and if I want to have a fight with her now, I say, "How long have you been in our country?" You know, it's 53

years. But back to Obama: He is sort of a representative of the mixture of America.

Hughes: I think he's half Irish.

Smith: His mother is white; his grandmother who absolutely adores him, and he adores her, is white. And his father is *not* an American black. At one time, his father was a brilliant man but later on went down the hill. But all of this is to say that (Obama's ancestry) is not unusual in the African-American resident culture, the standard resident culture. I could give you my white relatives as well if I'd do the research, but I'm not interested in that.

I admired and still do admire Senator John McCain because of his service, particularly his incarceration as a prisoner of war, but I've never admired him because of other aspects of his life. He was a ne're-do-gooder in the Naval Academy, and I understand his record in the naval air force is not the best in the world.

Hughes: He was more of a wildcat than a maverick in those days.

Smith: And so all of this sort of trounced my admiration of him. Between him and Obama I would have to lean towards Obama. Part of my concern about John McCain is the fact that Sarah Palin is his vice-president. If John McCain becomes president and Sarah Palin becomes the vice-president I don't know what I'm going to do. So, unfortunately, personality gets into it. And like you, I'm an observer of the passing scene and everything that goes on. I read newspapers; I watch television, sometimes listen to radio when I'm driving up and down the freeway. And so I know what is going on and I have responses and I have attitudes.

… But I think that the Republican system, and the spokespersons for Senator McCain or Governor Palin, and the people who write the speeches beat the drums of what I call racial hate. … So in the event Senator Obama wins, what's going to happen to those persons who have been stimulated into not accepting him?

Hughes: Including some of the lunatic fringe out there, like these two young white supremacists they just arrested …

Smith: So at any rate, those are my fears.

Hughes: In 1992, at a conference on African-American male experiences, you urged black men to "Take pride in who you are and what you're about." And to not, "listen to the

voices who say, 'You're no good – you're inferior.' " Do you think things are better today than they were 17 years ago when you said that?

Smith: I'm not certain we have seen the emergence of persons of color – the blacks, the Latinos, the Asians – into the mainstream society. Getting elected to public office, having responsibilities where people do not question them because of the fact that they are not white, are signs of progress. I think that in the housing field, for example, in which I have some bitter experiences, the housing now is open. Persons of color can live wherever they can afford to live. I have some horror stories on housing. But it's not my intention to recite my entire life.

Hughes: No, but we'll get back to that I hope.

Smith: Housing is a *significant* area of change. But there are *still* some gated communities like in Broadmoor where I could not buy a house even if I were a millionaire.

Hughes: The covenants still exclude people of color?

Smith: Well the restrictive covenants are not legal. But this is the gated communities that have associations that require acceptance by the governing board, sort of like a condominium association. There are still enclaves of white supremacy in housing but they are so minor that nobody pays any attention to it. A few years ago, for me to visit friends at Broadmoor I would have to sign in at the gate. There are places like this, and that never really bothered me. It wasn't because I was not white; it was because I didn't live there. At the Highlands in Seattle in order to go there in the old days you had to sign in and the guards would scrutinize you, make sure your license number was recorded and where you are going and how long you were going to be there. And all of those things have changed. But this gets back to my position that the *only* area that I see where progress has been made is in housing. And it's a matter of dollars and cents. The people who own the houses, who develop the houses, are looking for dollar return. And then with the recent fiasco in the financing world it will be interesting to me to see if I had the money to do it, and was otherwise inclined to do it, I could purchase some of these million-dollar houses in some of the restricted areas for little or nothing. But in other areas, I think in the educational field, for instance, there have been changes. I have witnessed the fact that the Superintendant

of Public Schools for Seattle, Dr. Maria L. Goodloe-Johnson, is a whiz. I've heard her on radio and she knows how to run things, and she's whipping the Seattle school system into shape.

Hughes: Very decisive, I get the impression.

Smith: And she came here from Charleston, South Carolina, a Deep South state … The president of Brown University is a black woman, and so women as a general rule, white or non-white, are powerful parts of our society. And when in the non-white segment of the world, the women are making progress that is to be commended. I think progress is not only racial progress, but gender progress. The Washington State Bar Association even has a particular group that is identified as the LGBT group.

Hughes: We're talking about Lesbians, Gays, Bisexuals, Transgenders.

Smith: And it's simple to refer to "gays," but on the other hand, to me it's more dignified to say LGBT. **…** But the emergence of that segment of our community is to me very encouraging. I'm an active member of the Hispanic National Bar Association. Last year our national president was a gay person.

Hughes: And you are, after all, part Latino.

Smith: Right. At his inauguration he introduced his wife – a man. They were dancing, and I had to sort of hold myself, not to be disgusted by that. I thought it was "in your face" and they didn't have to do it that way, but that's their life and they were establishing a point. And so all of this is to say that we are making progress, and racial acceptance, and gender acceptance, and in the acceptance of persons with other lifestyles, and *that* to me is progress. It did not happen in 1992 when I gave that talk you referenced. In fixing this layer, we have missed other aspects of our problems. The rate of unemployment, especially for blacks, is still higher than the rate for persons who are not black, and this does not get into the Latino population, which is another side.

Hughes: Not to mention Native Americans. The Native American unemployment rate is still just in the stratosphere.

Smith: Right. And then incarceration in prisons. For a long time, Washington State had the prize for the highest percentage of blacks in prison among the other 49 states.

(Secretary of State Sam Reed arrives to thank Justice Smith for being part of The Legacy Project. He asks Justice Smith if he was a Republican in the early days of his career.)

Smith: Until 1960 I was part of Young Lawyers for Nixon. And since that time, of course, I've been neutered under the Hatch Act. Actually when I worked for King County Prosecutor Charles O. Carroll, we were required to be Republicans. You can't get away with it now. But I was a Republican during the 1960 campaign. As I explained to Bob Kennedy when he asked me to go to work for him, "I'm a Republican. I didn't vote for your brother. I supported Nixon." But since that time, for good reason, I decided, to not be a party person. And thanks to our wonderful Secretary of State, I can make that choice now. I can vote for the *good* person, whoever that person may be.

Hughes: When you were talking about breakthroughs that certainly is one.

Reed: In case he doesn't say it, it's kind of a travesty that they had an age limit on serving on the Supreme Court because here he was 75 years old and this guy is more like most 65-year- olds … in terms of the energy level you had.

Smith: I like the 75-year-old rule, though. I'd hate to be a person having a case before me. I think that you decline intellectually after a period of time. Seventy-five is arbitrary, but at the same time I have friends who held on past that age and people will say, "Poor so and so. When will they let go?" And I didn't want anybody to say, "Poor Charlie Smith. Why doesn't he let go?" The state law required me to let go. And I was happy to do it, to get away from it so I don't have that responsibility.

(Secretary of State Reed departs)

Hughes: You were talking about dancing. I have a good segue, I think. I had children when I was in my forties, so I'm an old guy with young kids, and that's a good thing. You have grandchildren. Do you have strong feelings about the whole hip-hop, rap, "Gangsta" thing? And the notion by some African-Americans and other people of color that it's not cool to "talk white" or be too smart?

Smith: Well, I don't have a real answer because I don't understand any of it. And I really like people like Bill Cosby, who's black.

Hughes: A fellow alumnus of Temple University.

Smith: Well, that was only technical because Bill was in high school when I was at Temple. And for a long time Temple University was embarrassed over the fact that he was their greatest identification. Now they're so proud.

Hughes: He's really a man of parts. Do you know him, judge?

Smith: I've never met him. And I have a son who is now 52 years old who grew up listening to all Bill Cosby's records and tried to imitate his voice. It would drive me up the wall. So I've never been a Bill Cosby fan. But back to the question you asked: I have a classical music background. I studied piano for 12 years. So I think of music in terms of European music and the traditional black spiritual music. I'm an opera fan and symphony goer. And as you may know I served on the board of the Seattle Symphony and the Seattle Opera. In recent years when I came over to Olympia I gave up my season tickets. But having said all of this, in terms of my musical tastes, I have never adapted to the hip-hop and be-bop … the rap and all of that. One of my favorite musicians is Leontyne Price, the brilliant soprano. I literally worship her. I have all of her recordings. The Seattle Opera would bring her to Seattle about every two years. I would always gather a block of tickets for my children and my staff. Now she's been in retirement, thank heaven, because as you may know in the music field, especially the singers, their voices crack. Leontyne is the same age as I am. She's three weeks older than I am.

Hughes: How old are you, judge?

Smith: I'm 81. I'll be 82 in February. And Leontyne's birthday is in January. About 10 years ago, she came out of retirement to perform in an opera in San Francisco and my wife and I managed to get tickets and went down to hear her. My dedication is that kind of music, which is classical, European music.

Hughes: In pop culture you have these young black men and other men of color all "blinged" up, as they say, with elaborate jewelry, calling women "ho's." Earlier, some rappers were talking about shooting cops.

Smith: I cannot adopt it as part of the culture. They do not speak for me. So it's a phase like everything else I suppose. … I don't think that it is purely and simply a cultural thing. I think that the white culture helped make it popular to the point at which any black person who would make a fool out of themselves, women or men, could make money by doing that. And there are some good results, like Queen Latifah, who started out as a hip-hop person and now is a good and famous actor.

Hughes: She's also cut some pretty amazing jazz standards in the Ella Fitzgerald kind of idiom. She can really sing.

Smith: I heard her. And so to move from Spot A to Spot B, to mainstream acceptance, is fine and I commend her for it. I think she's a bright woman. I think she's a beautiful woman. And some of the entertainers like Beyonce are beautiful to look at. And, of course, if I had my druthers, I'm a Halle Berry fan. (An alluring laugh) But, back to the hip-hop stuff: I think that somehow or the other, the African-American culture has been saddled with an assumption that these people are speaking for the racial group, and they're not. And some of them are making big money. Beyonce is married to somebody named Jay-Z, a multi-millionaire.

Hughes: Well, I think she's a multi-millionaire in her own right.

Smith: And somebody named P. Diddy is a multi-millionaire. I don't begrudge people who make money as long as they do it honestly. But back to the business of whether that is to me culturally acceptable: The answer is no.

Hughes: Like Bill Cosby saying he's appalled that there's role-modeling going on where it is not cool to talk too white … He's saying that more people-of-color role models ought to denounce that. And then there was that off-mic moment where the Rev. Jesse Jackson was caught complaining that he wanted to trim Senator Obama's privates for —

Smith: I think he said "nuts" – "I wanna cut his nuts off."

Hughes: Well, the implication by some was that Obama was being too white, or too conservative.

Smith: I think in this case it's Jesse Jackson's jealousy over Barrack Obama. Jesse has had his day and nobody is paying any attention to him anymore. But one of the things you have

to be cautious about is to not assume that because a person is not white that whatever they say or do represents the group to which they belong. I've never protested. I make speeches. I say some (outspoken) things. But at the same time I am not trying to give direction to any group of people. My greatest experience with the black culture was when I was on the King County Superior Court and I sat in the juvenile court. That was my direct experience with what was happening in the black community in Seattle.

Hughes: Tell me more about that. Did you try to do anything from the bench, given your judicial powers, to get kids on the straight and narrow or to otherwise help them?

Smith: Well, everything is relative. And I won't deny that I did things to bring about change. *But* having said that, there was a time when black young people had these hairdos that were called afros. And they would use a cake cutter as a comb that they would stick in their hair. And I had a young person, maybe 12, 13, 14 years old, coming before me in the juvenile court. I had the staff person take him out of the court and take that cake cutter out of his hair, and said, "Nobody is going to come into *my* court with a cake cutter in their hair." Now, this may have offended the young person, may have offended his parents, but these are the kinds of things you do when you're in power.

I do not adopt Bill Cosby's approach to things. He's got a lot of money and he can afford to blast people. And it was never my feeling that in the lofty position of a Superior Court judge sitting in the juvenile court that I could control families. I would give my lectures to parents, and it was not necessarily black and white.

I remember one case that *really* bothered me was the case of a Boeing engineer, who was white, who was (having sex) with his daughter. He had his daughter and his son (in bed with) each other. And the mother was in court. She had no idea it was going on. It had to have been going on for years. The daughter then was 14, and the son was 12 years old. I was angry to *have* to deal with that. And that's just one of hundreds of cases. But the point is that the conduct that needed to be monitored was not only the conduct of the blacks, but the conduct of the whites. We've had some wonderful juvenile court judges that followed me. I was last in the juvenile court I think about 1973. So that's been a long time. But again, as a judge there's only so much you can do. I'm not one who believes that

judges can do what they do on television where they lecture people and chew them out and use all kinds of language embarrassing them and that kind of thing. There is a certain amount of decorum that judges must maintain. And judges must be respectful of people who come before them, whether they are lawyers, clients, or jurors. The atmosphere must be, in a sense, a very pure atmosphere in terms of decorum. My activities inside the courtroom sometimes were sort of paternalistic advice, but then outside the courtroom I was involved in all kinds of things — such as combatting alcoholism and drugs.

Hughes: Was your style the same in those outside activities? Were you a lot more avuncular or more prodding, more outspoken outside the courtroom?

Smith: Well, it's sort of hard to answer that one because if I were to chair a commission, for example, it is my *presiding* style that made a difference. I pride myself on being a good listener, and I know how to listen, and I know that people are not anxiously waiting for my latest words. So I think I would be a very boring person to listen to if I were the kind of person who tried to convince people by talking.

Hughes: Being a proselytizer.

Smith: So I would write articles. I would make speeches, and I fortunately had, for some reason or the other, the full support of the media, *The Seattle Times*, *The Seattle P-I*.

Hughes: I'm not here to stroke your ego, judge, but what you bring to the arena of public discourse is your intellect and your pleasing personality. I think that played a big role in the media support you've enjoyed. You were also a trailblazer.

Smith: I'd like to believe that.

Hughes: I understand that you knew the Rev. Dr. Martin Luther King Jr. when you were both young men. Is that so?

Smith: Yeah, but to me it's not a big deal. I was the youth minister at the church in Philadelphia where Dr. Gray, my mentor, was the minister.

Hughes: Where was that church?

Smith: Right next to Temple University; right across the street. Martin's parents were friends of the Grays, so I knew his parents better than I knew him. But he went to theology school in Eastern Pennsylvania and interned at our church. It was the Bright Hope Baptist Church.

Hughes: How old were you fellows then?

Smith: Martin was four years younger than I. So I had to have been in my early twenties. But knowing Martin Luther King Jr. to me was not a big deal.

Hughes: He wasn't this hugely charismatic figure that he came to be?

Smith: Oh no, that came later. We both were out of school and he hit the scene first in 1955. I was out of law school that year. I was in Seattle and he was in Atlanta or wherever. But his prominence developed, and he went to Boston University. Having descended from a line of Baptist preachers, his eloquence was very largely a product of the Baptist preacher syndrome more so than it was his individual style. But he capitalized on it by, one, getting his theology degree and getting his Ph.D. And with that kind of college experience, and the inclusion of new dimensions of education, the masters' philosophy and all of that, made him the person that he was. And I do not in *any* way tend to discredit that. It is simply that, for me, it was not a big deal.

Hughes: As time went by and he became charismatic and celebrated in what he was doing, his techniques, the boycotts, civil rights marches and the like, were you very much an admirer?

Smith: Oh yeah on the periphery. I've never been a quote "Martin Luther King fan" in the sense that I am a Leontyne Price fan; in the sense that I'm a Colin Powell fan; in the sense that I'm a Condoleezza Rice fan. I guess what happens when you're in the same age group, and you sort of grow up together in the same atmosphere, you tend to look at your peers who have become outstanding in a different light than you would if you didn't know them. … I'm very proud when I drive home to Seattle to go on Martin Luther King Jr. Way. There's a Martin Luther King Jr. street or way in practically every city in the United States. And there's the Martin Luther King Holiday. I've been to the King Center in Atlanta, and they're all worthy institutions. Martin was a fine man, but other than that I never was one who would become the president of the Martin Luther King Jr. Fan Club.

Hughes: Your life has been so eventful, I don't really know where to start. We've already made a big start just talking more casually, but we need to do the classic things. So, could you please state your full name and your date and place of birth?

Smith: Charles Zellender Smith, Z-e-l-l-e-n-d-e-r. I was born in Lakeland, Florida, on February 23, 1927.

Hughes: Tell us about your parents and their names.

Smith: My father's name, thanks to the Immigration Service, was John Smith. He was Cuban.

Hughes: What a wonderful "everyman" name that is – Smith. So that was a classic Ellis Island kind of thing? They couldn't understand his name so they just changed it? What was his real name?

Smith: Well, I've never been quite sure. I have a brother and a sister who went to Key West to trace family history, and they determined that our father's name was Manuel Delpino, D-e-l-p-i-n-o. I have never been totally convinced on that because when I was a child at like 5, 6, 7 years of age I used to talk with my father, who could not read English. I was trying to learn Spanish because I would go with him to visit his friends in Tampa where they would speak Spanish. So I was in my early years trying to become a little more acquainted with my father. I knew nothing about him. I asked him what the family's name was, and he said what I remember as something like Deregus, and I would spell it now D-e-r-e-g-u-s. And I asked, "How do you spell it?" And he said "R-e-z-y." I was amused by that as a child because I knew that my father was illiterate in the English language and semi-illiterate in the Spanish language. He was 12 years old when they left Cuba and the family settled in Key West, Florida, where all the Cubans were settling in those days, 1895 to the early 1900s. And then ultimately he migrated from Key West to Lakeland, Florida, where he met my mother, who was born in North Carolina.

Hughes: So your father's ethnicity was Spanish-derived Cuban?

Smith: Cuban, certainly with a Spanish overlay. The Cuban culture was based upon the Spanish culture, but in the Caribbean the existence of Cubans and Puerto Ricans is a mixture of everything. My father was of swarthy complexion and I would put him in the category of Mestizo. However, I'm aware of the fact that in the Caribbean, Cuba and Puerto Rico and other areas like that, there was a mixture of the slaves who were brought

into those islands. So somewhere along the line there might have been African ancestry. I don't know, but I never considered my father as having any African connection. But again I'm talking about being a child. I would get Spanish books and try to get my father to tell me how you pronounce this word or that. And I was again very amused sometimes. I don't know if you know anything at all about the Spanish language, but let's use the expression "como esta usted" – "How are you?" And I would say to my father, "How do I say that?" And he said, "Como ta te."

Hughes: Oh, so it was a dialect thing …?

Smith: I don't know. As I reflect back on it, you know, 70 years later, I don't know. But I know that in any culture there are dialects. But when my father was around other Cubans they would speak just like that. The Cubans speak Spanish so fast that I can't understand it. So here I am as a child 5, 6, 7 years of age, trying to understand Spanish, and *trying* to be able to communicate with my father in his language. They hadn't invented television. Or at least it wasn't available, so we listened to the radio from Havana. So my impression of the Spanish language was based upon the news commentators' language from Havana. That made sense to me because even in the English language, commentators were very precise in language. The commentators on radio Havana were very precise, and I could understand them.

Hughes: Even the baseball announcers are that way, but they get excited, too.

Smith: Right.

Hughes: So how did he meet your mother?

Smith: Well, my mother, Eva Love, was a professional cook. And at a tender age, age 14, she was the head chef at a tourist home in her home town of Franklin, North Carolina. The people she worked for were either sufficiently impressed with her ability, or they found it easy to capitalize on her vulnerability. They would bring her from North Carolina to Lakeland where they had a tourist home. And she was the chef of the tourist home in Lakeland in her teen years, 14, 15 or 16.

Hughes: And a *good* cook, too?

Smith: Quite obviously because in later years sometimes I'd go to the tourist home when they'd be there and she would serve me food, and it was different than the food we had at home.

Hughes: Did you grow up with all sort of wonderful smells wafting out of the kitchen? Is that a fond memory?

Smith: Well, not to me it wasn't a fond memory. It was plain food as opposed to elegant food. And in a hotel or a tourist home the food was for the trade, and so my mother's cooking at this facility was different than her cooking at home. But my mother was a good cook. She could make something out of nothing.

Hughes: Did she cook things that your father liked – Cuban inspired dishes?

Smith: Well, it was not identified as such. We always had hot peppers, for example, and beans and rice, a common phenomenon for most people. But the Cubans are no different than some of the other ethnic groups. And we were not wealthy people. My father was an automobile mechanic.

Hughes: Did he work on any special kind of cars … for a dealership, or just a jack-of-all-trades mechanic?

Smith: He worked for a big company, (Grady Zellner), Z-e-l-l-n-e-r. And my middle name was supposed to be for Zellner, but somehow or the other the spelling got changed to Zellender, and I never discussed that with my mother. But at any rate, my father worked for Grady Zellner and he was a master mechanic. And then the Depression came on, and my father's employment just went to pot. He had to work for what was called the Works Progress Administration, WPA, and he was doing manual labor like ditch digging. He would complain and say, "I'm going back to Cuba," and so someone among his white superiors decided to have him deported.

Hughes: Really? How old were you then?

Smith: Eight years old.

Hughes: Oh, that's terrible!

(Justice Smith pauses as he is overcome by emotion at the memory)

Smith: Well, I didn't know what immigration was. And this is where the name Delpino

comes in. There was a woman, "the fat woman who lived near the lighthouse," in Key West. Her name was Hattie Delpino. She was my father's aunt, and somehow or the other she was able to convince immigration not to deport him.

Hughes: That had to be one of the worst moments of your life.

Smith: And of course I come from a big family. There were eight children

Hughes: Eight children. And what was the birth order?

Smith: I'm number three, so I had three sisters all over nine and I had a sister who was two years younger than I, one four years younger than I. So at that time when my father faced the threat of deportation my parents had five children. Later on three more were born. We're all two years apart, so I can gauge my age by taking two years. I am now 81, nearly 82, and I have a sister who is 83. And then I have a sister who's 79, and one who's 77. My brother, who would have been 75, was killed by a hit-and-run driver on Rainier Avenue in Seattle in 1981. And then I have two younger brothers who are two years down the line.

Hughes: Who do you most resemble – your father or your mother? Or is it like a remarkable blend?

Smith: It's a strange one because my mother was much darker than I, and my father had a very swarthy complexion. My mother's father was the second generation of a house slave. … the product of a relationship between the plantation owner and his mother. … It's hard to know how it comes out when you get the blood lines between people of different backgrounds – and the question of who does one resemble most. I never thought of myself as particularly resembling either my mother or my father except that my pattern of baldness is similar to the pattern of baldness of her father, whom I knew.

Hughes: What were those people like? Do you have any theories about how people from humble circumstances end up with extraordinary offspring? Is it just give people a chance and they will thrive?

Smith: Well, my only theory is that the educational system that denied access to generations of people is partly at fault (for not producing more people of high achievement). However, denial of a formal education did not deny intelligence. My

mother was born in 1900, so if she were alive she would be 108 years old. She was highly intelligent.

Hughes: Did she have any kind of formal education?

Smith: My mother's education I believe probably ended at about ninth grade.

Hughes: In what I've read about your mother, she was a real stickler for good English and proper diction. Is that accurate?

Smith: You better believe it! My mother was always concerned that her children not grow up speaking with an accent like their father. She was intolerant of his accent because she didn't understand the Spanish language. And I just wish the times had been different so my mother would have embraced the Spanish language, because she had the intelligence to develop it. But she would drill us on English. And of course, in the area of North Carolina where my mother was born, even though North Carolina is a geographical Southern state, the language in the area is not quote "Southern language." It's very much English oriented. I don't know where that came from, or how it happened, but my mother spoke impeccable English. And she would stop us in the middle of sentence if she heard us say something with a particular accent, or a particular pronunciation that she felt was not right.

Hughes: Were you called "Charlie" as a boy growing up?

Smith: No. I was always called Charles. It wasn't until I got into law school that people started calling me Charlie. I think when I was at Temple my classmates were calling me Charlie, but I never took on that. When I was in law school, because that is a more concise community, through the years you're associating with the same people. So they started calling me Charlie, and I liked it. But my wife doesn't like for me to be called Charlie.

Hughes: That's interesting. And she's Eleanor – "Elie" for short. Is that right?

Smith: Right, right.

Hughes: "Charlie" just doesn't resonate with her?

Smith: She says I don't look like a Charlie.

Hughes: So when you looked in the mirror growing up, were you conscious of racial

identity? Was race a huge thing growing up in Florida in that era – the 1930s? Did you always know who you were and liked it?

Smith: Well, this is an interesting thing, and I don't want to deny my blackness. But even though I was fully aware of the social problems between blacks and whites, at the same time I think I was born a very arrogant person, and my arrogance would not permit me to (feel inferior).

Hughes: And how did your arrogance manifest itself? Seems like you just had a lot of self confidence.

Smith: My wife kids me by saying, "Your parents gave you *very great* self-confidence." But I always thought I was bright. I did a lot of reading. Nothing bothered me. The fact that I could not drink from a white water fountain didn't bother me because I didn't need the water. Growing up in a culture where things are separated black and white, all over the country, regardless of whether it's the Northwest or the South or wherever it happened to be, we had racial restrictions.

Hughes: How virulent was racism and segregation in Lakeland, Florida, in 1930-35? Was it a pronounced, vicious, demeaning kind of thing, or more genteel?

Smith: Well, a combination of both. The separation was churches, schools and neighborhoods. So if you were not white you had to live in this area. If you were not white they had what they then called colored schools. And of course this manifested itself all over the country. Like in Seattle, Garfield High School for a long time was the stepchild of schools in Seattle. They didn't have new books; they had hand-me-down books. Well, it was like that in the schools in the town where I spent most of my time.

Hughes: You're still in Lakeland at that time, judge?

Smith: Yes, Lakeland. I left there when I was 12 years old. I had black teachers; it was all black students, and second-rate support from the system itself – teachers' salaries and the like – was poor. There were lawsuits that were brought about teachers' salaries. And the textbooks were hand-me-down textbooks. That was part of a way of life. So in order to work oneself through those rough wars one had to have a good understanding of oneself. I never thought of it in terms of my being deprived, although I was fully aware of

the fact that the per capita cost for education for black students was considerably lower than for white students. The white schools had equipment; they had buildings, and those other things that add up to a decent education. And so I was fully aware of the difference between black and white existences. However, it was not something that created a problem for me. I guess I knew my place, whatever that means, and I knew that I could not whistle at a white woman. I would not whistle at a black woman either. It was not my style.

Hughes: In Lakeland, Florida, in that era, would whistling at a white woman get you killed?

Smith: No.

Hughes: Not like in Mississippi or Alabama?

Smith: No, they always looked down on Mississippi as a different world. However, at the same time you knew that you were not white. So how do you know that? Well, what church do you go to? What schools do you go to? What libraries do you go to?

Hughes: There were separate libraries as well? You couldn't go to the Carnegie Library in Lakeland, Florida, and check out "Swiss Family Robinson"?

Smith: No. But to my advantage, however, because of the little black library we had, I had the librarian who was also one of the teachers who helped me to read every book in the library.

Hughes: What was your favorite book?

Smith: I had no favorites. My un-favorite was "Pilgrim's Progress."

Hughes: I don't know why that's a classic. It's so turgid.

Smith: I would spend time in the library, and take books home and read, read, read, read. And I got the "Pilgrim's Progress." I didn't understand it then. I don't understand it now.

Hughes: Were there any kind of legal or social issues involving the marriage of someone considered to be a Negro and someone who was Cuban?

Smith: No. Of course, I think if my father had been visibly white it *might* have made a difference. However, at the same time there was one other Cuban in our neighborhood. My father was for a long time the only Cuban in town.

Hughes: So was it a largely black town?

Smith: No. You had the white segment, and you had the black community. Then there

was my father, who lived in the black community. We had a neighbor whose name was Mario Martinez, who was a white-looking Cuban, so there were two Cubans in our neighborhood. Most of the Cubans were white in Tampa. And Tampa was the enclave for Cubans like Miami is now. So no Cuban wanted to live in Lakeland, Florida.

Hughes: How big was it?

Smith: Lakeland's population then was 30,000, and now it's about 90,000. But again in looking back, and we're talking about many, many years, so if I look back 70 years to what it was like then, there are other memories that I have that are different than the sociological concern. And I mention this sort of as tongue-in-cheek. We moved to Lakeland from North Carolina. I lived in North Carolina from the time I was 18 months old until I was 5. My father owned the school bus. In those days the schools contracted with private bus owners, so he was driving a school bus in North Carolina. But the winters were too hard for him, so he returned to Florida and prepared a place for the family. We moved from North Carolina to Lakeland, where I was born. Our school bus was parked in front of the house and the kids in the neighborhood would come to play. One day, when I was 5 years old, one of them had a grapefruit. I'd never seen a grapefruit before. And I knew what an orange was because in North Carolina at Christmas time we would get oranges. So I said to him, "What is this?" He said, "It's a grapefruit." I said, "How does it taste?" He said, "Just like an orange." I bit into that grapefruit, and for the last 76 years I have not eaten a grapefruit! Of course in those days, in Florida, these fruits were in everybody's yard. We had oranges, lemons, limes, papayas, and guavas and all these other things. Not anymore. The world has changed. But that is my most *significant* early childhood experience – having been conned into biting into a grapefruit.

Hughes: That's funny. Was the church a significant part of your growing up years? Did you go to church every Sunday?

Smith: Oh yeah.

Hughes: What church was that?

Smith: It was a Baptist church, a black Baptist church because churches were segregated as they are here in Seattle. You have black churches here. I have not been a member of a

black church in Seattle. My church is Seattle First Baptist, and for a long time I was the only black member.

Hughes: Why would that be? Is it that you see yourself as not necessarily a person of color; you're a citizen of the world. It's the family of man?

Smith: Well again, it's a combination of a lot of things. I came to Seattle and I was living with my mother in the Central Area.

Hughes: That was during your law school years – the early 1950s?

Smith: Yes. And her next-door neighbor was a woman who was a member of the First Baptist Church who encouraged me to meet the minister at the First Baptist Church. She knew that I was a Baptist. So I met one of the ministers and was very much impressed with the quality of person that he was. He welcomed me into the activity of the church. My first activity was to drive the school bus for the Vacation Bible School. The head minister was very active in concern for Japanese-Americans who were relocated during World War II, so he was very prominent in that area and was I guess what could easily be referred to as a very liberal minister.

Hughes: Who was that person?

Smith: Harold Jensen, J-e-n-s-e-n. Dr. Jensen met with me and encouraged me to become a member of the church. However, and this is where it gets funny, he was not sure that the other members of the church would be willing to accept me.

Hughes: What happened then?

Smith: It was decided that I would sing in the choir because I could read music.

Hughes: Are you a good singer?

Smith: I'm terrible; never had a voice. But at that time in order to be a member of the choir you had to be able to read music, and I could, so Dr. Jensen decided that *if* I sang in the choir people would get accustomed to seeing me. And after a couple of weeks or months passed, I could finally become a member of the church. So this to me was *sort* of funny because the members of the church would have activities, like dinners for groups, and I'd always be invited. Nobody ever treated me any differently. But I knew that I had to grow through this period of acceptance. And the people at the church are now

embarrassed over that fact, because I'm one of the oldest longtime members.

Hughes: Would that date from 1952?

Smith: 1952. I've been a member of Seattle First Baptist Church since 1952.

Hughes: Were there any other people of color in the congregation at that time?

Smith: We had one Filipino family. And of course over a period of years we now have a sort of integrated church.

Hughes: But back to going to church as a child in 1930s Florida, at a classically black Baptist church. Was there the classic ebullient sermonizing?

Smith: No, the church that I grew up in, in Lakeland was more traditional. The minister was my godfather, and I was really close to him.

Hughes: Who was that, judge?

Smith: His name was Horace L. Stephens, S-t-e-p-h-e-n-s. And he had something to do with my meeting Dr. William H. Gray Jr., who would become my mentor. But we had good music, and he was a well educated person, so it was not the knock-down revival type preaching. I was not exposed to that at all. I think that the First Baptist Church in Lakeland, the black church, was pretty much based on the white model as opposed to a black model.

Hughes: The music part of your childhood is impressive. So you were a classically trained pianist from what age?

Smith: Five.

Hughes: A lot of kids complain bitterly about being made to practice the piano. Did you enjoy that?

Smith: I enjoyed it.

Hughes: Were you good at it?

Smith: I was very good. (laughing)

Hughes: I have the Horowitz piano sessions from Moscow that are just absolutely breathtaking. You could hear a pin drop in that auditorium. A lot of people say that vinyl records are warmer than digital. I have a trove of vinyl records, but I have a new digital pressing of the Horowitz and it's amazing.

Smith: How does that equipment work?

Hughes: They're digitally remastered CDs.

Smith: I have a storehouse of records and I've been thinking of converting them.

Hughes: There are recorders that will do that. … Growing up, could you see yourself being a classical pianist?

Smith: No, I did it purely for the enjoyment.

Hughes: Do you still play?

Smith: I can, but I stopped playing because I have a son who is so much better than I. He went to Cornish School for music as a teenager. And he is so good he can transpose by sight. And when my son Carlos started playing I had to stop. And every now and then with my grandchildren around I may play something. I still have the residual learning of music, and I still play. We have a piano in Seattle, and every now and then I may feel like playing.

Hughes: I recall something within a really good interview you did with Tom Ikeda at the Densho Project Digital Archive in Seattle that in Lakeland during that era there were some amazing jazz and big band performers that came through, and you heard some of them. Tell us about that.

Smith: Our house was next door to a dance hall called the Palace Casino.

Hughes: Was it in fact a casino as well as a dance hall?

Smith: No, that was just the name of it. And back in the bad old days, blacks could not live in hotels. So the big bands had these big dormitory buses, and they would come to play at the Palace Casino because that was the place they would play. So Duke Ellington, you name the performer, they were there…

Hughes: Fats Waller?

Smith: Fats Waller. You name them; they would play at the Palace Casino. And their buses would be parked right in front of our house. And because we had a piano, sometimes a few of the performers would use our piano to do practicing. So I was exposed to them. Not overwhelmed by it, but I was simply aware of it.

Hughes: So you heard Duke Ellington in the 1930s as a child?

Smith: Right.

Hughes: That didn't blow you away? It was good music, but —

Smith: Well, of course, this comes with my appreciation for elegance. I would be attracted to a jazz musician who was quote "classically trained." And of course there were other musicians who were Juilliard graduates and I was aware of Juilliard.

Hughes: In contemporary jazz, the Marsalis brothers are classically trained, aren't they?

Smith: Absolutely. And so I'm not rejecting popular music. I think I probably have collection of jazz records. Those by Duke Ellington are some that I especially liked.

Hughes: Miles Davis?

Smith: I didn't ever really like Miles Davis. But I hear it now and really enjoy it. But Earl Hines? Just phenomenal, and Teddy Wilson, these are amazing people.

Hughes: How about the immortal Louis Armstrong? Did he ever come through Lakeland?

Smith: I don't remember him at all. I became aware of him in later years. But the others were simply a part of my existence, and I just took it for granted.

Hughes: That's amazing. Did any of the kids tease you for being smart, for being such a precocious kid?

Smith: Well, I don't say I was precocious, but actually no, they didn't. This past year, I spoke at the high school I attended up until tenth grade. It was for their alumni association, their 50th year or something like that. And while I never graduated from that school, they consider me one of the alumni. And the young woman who introduced me was in the class that I was in. Well, she's not young any more. She's my age, but she was boasting of the fact that I was younger than the others in the class, and that I was brighter than they were, and that kind of thing. And while on the one hand I was annoyed that she would make reference to it, on the other hand it reminded me that I was always accepted by the others in my class, even though I was always about two years younger than most of them. But I always felt that my peers were more *proud* of me than they were disdainful of me.

Hughes: That's nice.

Smith: So I never had any reason to not believe them because I think that I'm basically a nice person.

Hughes: Charlie Smith has never had any trouble making friends. Is that fair to say?

Smith: Well… (He smiles broadly and won't respond)

Hughes: You've got a thousand-watt smile, judge! Well, speaking of transformational figures, tell us about William H. Gray Jr., this bright young psychologist, and how he comes into your life during your childhood. I've heard a couple of versions of this, including some talk about it being Svengali-like.

Smith: OK. The minister of my church, the Rev. Stephens, was chairman of the board of trustees of a small school in St. Augustine, Florida.

Hughes: What was its name?

Smith: At that time, it was Florida Normal & Industrial College. It is now Florida Memorial University, in Miami. They moved it to Miami.

Hughes: The "normal" used to imply a school that produced teachers, didn't it?

Smith: "Normal" normally meant a two-year school. Dr. Gray was brought in as president of Florida Normal College when he had just received his Ph.D. from the University of Pennsylvania, and he was then 32 years old.

Hughes: Goodness. An Ivy Leaguer.

Smith: And it was during the time that Robert Hutchins at the University of Chicago had come up with the theory that bright young people did not need to graduate from high school in order to enter college. It's what we now call an early-entry program here. And so this was part of a culture in the educational field when Dr. Gray met me. I had gone to St. Augustine with my godfather to help him to drive, and Dr. Gray had decided that I was bright. He got permission from my parents to administer tests to me. And among them, at that time, the most popular test was the Stanford-Binet test. And so he ran me through a battery of tests and sent them to his major professor at the University of Pennsylvania, who confirmed that I was very bright. (laughing)

Hughes: Did they tell you what your IQ was?

Smith: No. And so then Dr. Gray got permission from my parents to take over responsibility for my education.

Hughes: Did that involve you moving in with the Grays?

Smith: Right.

Hughes: And how did your folks feel about that? You're 15 years old.

Smith: They were OK (with it).

Hughes: Because they had these eight kids?

Smith: Not so much because of that. I had gone to a boarding school the year before then. They were accustomed to my not living at home, so it was not a big family thing. I think my parents recognized that this was an opportunity that they could not provide.

Hughes: And Dr. Gray was going to foot the bill for all this? I mean room, board and the whole thing?

Smith: My parents never paid anything for my education. But at the same time I worked for Dr. Gray and I got paid while I was going to college.

Hughes: Doing what?

Smith: Well, I was a champion shorthand writer.

Hughes: I used to know shorthand.

Smith: I still use it. When I was 14, I could do 200 words a minute writing shorthand.

Hughes: That's impressive.

Smith: So I was quote an "administrative assistant" to Dr. Gray, who was president of this college in St. Augustine. While he was there, they increased the capacity of the school from a two-year school to a four-year degree-granting school. Because he had made such an impact in the educational system in the state of Florida, he was brought in as president of a state school, which is now Florida A&M University.

Hughes: Where was that located?

Smith: Tallahassee. Dr. Gray was at Florida Normal for two or three years. And then he went to Florida A&M.

Hughes: Is he a married man then?

Smith: Yes. A wife and two children. His daughter was 75 when she died a few years ago. And their son, William H. Gray III, was a member of Congress for a long time.

Hughes: From what state?

Smith: Pennsylvania. He was the Majority Whip for the Democrat Party in Congress. He later headed the United Negro College Fund. He retired from that two years ago and is now

a consultant and corporate board member.

Hughes: Are you still close with the Grays?

Smith: I'm closer to the Gray family than I am to my Smith family, even though I still have relatives in Seattle. I just grew up as part of the Gray family.

Hughes: What kind of man was Dr. Gray?

Smith: He was bright, considerate. It's hard to put it in words. People have said to me, "He took advantage of you."

Hughes: That's what I'd heard from some sources.

Smith: I never considered it that way. I felt that he had my best interests at heart and that what he was trying to prove was that you could take a bright person and put them in a program that would yield success. The way it becomes more specific – and this is not something I've ever discussed before – is that Dr. Gray sat down with me and dictated to me the courses that I should take in college.

Hughes: "You need to have English 103 and Calculus," right on down the line?

Smith: Yes. Speaking of Calculus, he enrolled me in a class in Integral Calculus, and I'd never had mathematics.

Hughes: So you didn't have any kind of math background until then? You've jumped from being a 10th grader in high school to college freshman.

Smith: No math background. Back in the old days, the Army had a program where they had Army officers in college. So I was thrown into a class with older students.

Hughes: How old were you?

Smith: I was 15.

Hughes: And here you are in there with men 20, 30 years old, right?

Smith: And they had math backgrounds and I didn't. I skimmed through that one. I don't know how. I think the teacher was sympathetic to my predicament. I can't otherwise explain it because even now I shy away from mathematics.

Hughes: You are talking to a kindred soul, judge!

Smith: So that's the kind of thing that he did. Then Dr. Gray decided I was going to medical school.

Hughes: How old are you by then?

Smith: Oh, by that time I was 16.

Hughes: Did you ever bristle and say, "My gosh, I'm not good at Calculus and now it's medical school!?"

Smith: Well, as it turned out I had a way out. When I turned 18 I wanted to go into the Army to do hand-to-hand combat with the Japanese.

Hughes: This is 1945?

Smith: 1945.

Hughes: *You wanted to go into the Army and do hand-to-hand combat with the Japanese?!*

Smith: Yes!

Hughes: OK. Please elaborate. (Both are laughing) This is the most surprising thing I've ever heard about Charles Z. Smith – this very cerebral, charming person wants to be in the thick of battle.

Smith: Well, I was victim of the war propaganda. I registered for the draft in Tallahassee where Florida A&M is located.

Hughes: As a person of color, could you really buy into these stereotypes? The Japanese as yellow-skinned, bucktooth caricatures?

Smith: I was an American, and I believed in all the propaganda. And I had never met a person of Japanese ancestry until I came to Seattle to law school. And so I knew that there were such things as Chinese who had restaurants … But I had never met any person with Japanese ancestry.

Hughes: So this was an act of rebellion against Dr. Gray's influence?



Charles Z. Smith in the Army, 1945
Charles Z. Smith Collection

Smith: An act of rebellion in this sense: Dr. Gray was out of town. But the reason behind it was that he had gotten a deferment for me from the draft board in Tallahassee without my knowledge. When I found out about it, this is where I started to rebel. I had my draft board status transferred to Lakeland, my home town, and signed a request for voluntary induction. I didn't

tell Dr. Gray that, and he was out of town. I got my notice of induction and I left a note on his desk that said, "Goodbye, I have gone to the Army."

Hughes: That was it? I imagine he was not amused.

Smith: It took him a while but I think intellectually he could understand it. I think that it sort of created a breach in our very close relationship where he could not understand why I would pull this fast one on him without consulting him. But then I couldn't understand why he would get a deferment for me without consulting *me*. And so I was emerging as my own person.

Hughes: Also, you had strong patriotic stirrings; your country was at war.

Smith: So anyway, I got in the Army, and I applied for Officer Candidates' School. But my colonel decided I was too young, so I ended up being assigned as a court reporter for court-martials, and ultimately was head of the office.

Hughes: Where was that?

Smith: Camp Lee, Virginia.

Hughes: And was that a strictly segregated United States Army?

Smith: At that time the Army was segregated. We lived in separate quarters (from white soldiers).

Hughes: But there were white and colored personnel there at Camp Lee. You didn't sleep together, but did you work in the same office – a mixed-race office?

Smith: I had whites work for me in the office, and also I ran the theater.

Hughes: A movie theater?

Smith: Yeah, a movie theater when I as 18.

Hughes: Did you like movies?

Smith: I didn't particularly like the movies other than the fact that I got paid for it. So during



Sergeant Smith standing in front of the theater he managed at Camp Lee, Virginia
Charles Z. Smith Collection

the day I handled the court-martial office and in the evenings I was the manager of a theater that was an integrated theater. At Camp Lee, Virginia, the only integration we had was in the theaters, so whites and blacks could attend the same movie.

Hughes: There wasn't a black balcony? You were co-mingled watching the movies, watching John Wayne or whatever?

Smith: *Well, I was the manager.*

Hughes: Of course! … But your desire to see combat was —

Smith: Well, the war was over. I went into the Army on July 5 of 1945. And the war was over in Europe in June and in the Pacific in August. So I ended up in the peacetime Army.

Hughes: What kind of rank did you make?

Smith: I was a Staff Sergeant.

Hughes: E-5.

Smith: Yeah, my "Great White Father" decided that to keep me from agitating about Officer Candidate School that they'd just promote me. So I never did basic training.



Staff Sergeant Charles Z. Smith, October 24, 1946
Charles Z. Smith Collection

Hughes: You never went to basic training?

Smith: No. But see I had skills that the Army wanted. And I know what my AGCT score was – 168. That one I happen to know. Somehow the people in charge figured that "this is a hot one" and we could use him to keep him out of OCS. I didn't go to OCS because I was able to get out of the Army. And the army had — do you have an Army background?

Hughes: I have an Air Force background.

Smith: OK, the Air Force is a *little* bit different than the Army. The Army had all these crazy rules (at war's end). So I became head of the

court-martial section because the Army had a rule that anybody over the age of 35 could get out of the Army upon request. And the other court reporters in my office were over 35, so they all applied for discharge. So that ended up with me, the sergeant in the office, having to run the office.



Staff Sergeant Charles Z. Smith overseeing the court-martial office
Charles Z. Smith Collection

Hughes: And you're 20 years old?

Smith: I was only 18.

Hughes: Eighteen years old; that's incredible.

Smith: So I was promoted to Staff Sergeant to head that office. Then later on, after both wars were over, the Army came up with a regulation that said *if* you left college to come into the military you could get an immediate discharge upon proof of readmission to college.

Hughes: So you called Dr. Gray and said, "This is Charlie checking in … Sergeant Charlie Z. Smith. Remember me?"

Smith: (laughing) So I got readmitted.

Hughes: What was Dr. Gray's reaction?

Smith: He never let me forget it: "You ran away, and you *begged* me to get you out." By the way, the man I jokingly referred to as my "Great White Father" was Col. Whitfield W. Watson, QMC.

Hughes: What a wonderful name. What does the "QMC" stand for?

Smith: Quartermaster Corps. And I pulled a fast one on Colonel Watson, too.

Hughes: Is he in fact a white man?

Smith: Yes. We didn't have any black officers. Well, we had one black officer who was there temporarily … a second lieutenant. But all the others were white. And speaking of officers, there's a lawyer in Seattle named Paul Cressman, who was a first lieutenant at that time. He used to serve on my court-martials. I could decide who I would ask to serve. Paul

was on temporary duty. He was an infantry officer but he was temporarily assigned to the Quartermaster Corps because he was engaged to the general's daughter. So I kid Paul now because I knew him before I knew *anybody* else in Seattle. Paul was 19 and I was 18.

Hughes: This is pretty much the first time you're around and interacting with a lot of white people, isn't it? Did you have white friends growing up as a boy?

Smith: Oh yeah.

Hughes: Oh, you did.

Smith: Some of my playmates were white. But it's a longer story than that, John

Hughes: OK, sure. We can come back to that. Right now, I want to go back to December 7, 1941, "A date which will live in infamy," as FDR put it. It has always annoyed me, speaking of grammar, that he didn't say "A date *that* will live in infamy." But it was still a great speech. So it's December 7th. Where are you and how does the bombing of Pearl Harbor resonate with you? You're in college, right?

Smith: Not in '41.

Hughes: Yeah, you were 14 years old, just about to start. You're born in 1927, right?

Smith: Right. Now I seem to recall that in 1941 I was in boarding school. In a school called the Hungerford School.

Hughes: What kind of an event was Pearl Harbor for a young man? Was it cataclysmic?

Smith: Again, I guess I've always been a patriot. I'm an American citizen and these terrible things are happening. Here's another war-related story that's before 1941: I took shorthand because of a news person, William L. Shirer, who wrote a book called *Berlin Diary*.

Hughes: Exactly, and later a minor little work called *The Rise and Fall of the Third Reich."*

Smith: Right. And I read where William L. Shirer was able to get his notes out of Germany because he had written them in shorthand. In my way of thinking, I decided that I would learn shorthand so if I were ever captured that I would be able to keep notes.

Hughes: What a great story. Did you really envision yourself in combat? Could you really see yourself engaged in that kind of mano-a-mano brutal …?

Smith: Only in the deepest recesses of my imagination, because now that I reflect on it, I

would call myself essentially a pacifist. And the way our government promoted things with these war documentaries was very effective. It had beat the drums for people like me who were so impressed with the fact that I could do the best for my country by fighting with a rifle and a bayonet and to do hand-to-hand combat. But it was never very real, and I think that it was sort of a pipedream that I had. … But back to December '41: I went to a private school called Hungerford School. It was a boarding school and it was originally started by the Congregational Church in a little town in Florida called Maitland.

Hughes: I've heard of Maitland, and I don't know why.

Smith: Well, there was a famous writer, Zora Neale Hurston, who was born in Maitland.

Hughes: Whom I read in American Literature class at the University of Puget Sound.

Smith: So Zora Neale was the hero of the area. Hungerford School was located in Maitland. And I went there on a scholarship paid for by the Methodist Church, which was a white group.

Hughes: Methodists are interesting folks, aren't they?

Smith: *They are*. And I had attended a summer event at Hungerford sponsored by the Methodist Church, and somehow or the other, and I quote, "leadership possibilities" came up. The head of the Methodist Conference decided to make it possible for me to go to school there for a year.

Hughes: I think we should backtrack a minute to follow up on something important: What dissuaded you from medical school? Do I have it right that Dr. Gray suggested that becoming a physician would be a good career for you?

Smith: A combination of a lot of things. I hope that my wandering is not confusing.

Hughes: No, it isn't. It's interesting.

Smith: Dr. Gray had decided that it would be best for me to go into the medical field. He was determined that I go to medical school and had even prearranged for my admission.

Hughes: To where?

Smith: Meharry in Nashville.

Hughes: Can you spell that?

Smith: M-e-h-a-r-r-y. … It's still going strong. Meharry Medical School. There are only

two black medical schools in the country. … White medical schools would not take blacks. Howard University and Meharry were the two medical schools. Dr. Gray had arranged for preadmission for me and I hadn't even completed my undergraduate work.

Hughes: So this would have been 1944, '45?

Smith: Around that time. I sort of lose track of the years. But one of the things he was open to was for me to observe surgery as a test of whether this would be the field that I would be satisfied with. I observed surgery and decided that I could not stand the sight of *blood*.

Hughes: Do you remember what kind of surgery it was?

Smith: I have no idea.

Hughes: But there was a lot of blood?

Smith: It's just a vague recollection on my part. So I said to him, "I'm not going to medical school." So he then said, "Well, you have to get a terminal education in a field for you to become independent."

Hughes: A "terminal" education? I've never thought of things that way.

Smith: That means a Ph.D or an M.D. – an advanced professional degree. At that time, I was at Temple in Philadelphia and I was involved in a new movement in educational psychology.

Hughes: Was Dr. Gray at Temple by then?

Smith: No. He never taught at Temple. We had moved from Florida A&M back to Philadelphia.

Hughes: What was Dr. Gray doing in Philadelphia?

Smith: He never returned the academic field as such. He taught courses at one of the colleges there. He was at one time the editor of a newspaper, the *Philadelphia Afro American.*

Hughes: That was a well known African-American newspaper.

Smith: Well, its headquarters was Baltimore and they had branches. They had a New York branch and a Philadelphia branch. He was editor of the *Philadelphia Afro American*, and I was business manager there.

Hughes: Really?

Smith: Oh yeah. So whenever Dr. Gray had something I was always his number two person. At one time, he was the executive director of the Philadelphia Police Review Board. And then he was executive director of the forerunner of the Fair Employment Practices Commission for the State of Pennsylvania. Simultaneously he was minister of Bright Hope Baptist Church in Philadelphia, which had been headed by his father. And his son, the congressman, William H. Gray III, was the third generation of the Gray family to be minister there.

Hughes: So this is a very distinguished family.

Smith: Right. At any rate, I had taken my business law courses in the law school at Temple. So Dr. Gray sat down with me and decided what I should do if I didn't go to medical school. I wanted to go into social work. And I was involved in a new movement out of Columbia that was commonly referred to as Group Dynamics. The proponents of that theory were Kurt Lewin and George deHuzar. My professor at Temple, whom I absolutely adored – I just related to him so closely — had decided that Group Dynamics was a field that would lead me into social work. I announced to Dr. Gray that I wasn't going to medical school; I was going into social work. And he gave me this practical advice: "You spend three years in social work and you get out and you'll be working for somebody else. You spend three years in law school and you'll be independent." And I said, "Why should I go to law school?" I only knew two lawyers.

He said, "You took your business law in a law school. You did very well. You liked the method of teaching?" And I said, "Yes." He said, "You're going to law school." So, this again is where the "svengali" aspect of the relationship comes in. At that time, 1948-53, Harold Stassen was president of the University of Pennsylvania.

Hughes: Yes, the boy wonder of Republican politics in the 1940s.

Smith: Dr. Gray had run for Congress when Harold Stassen ran for the U.S. Senate from Pennsylvania. So he and Harold Stassen became very good friends. And in those days – we're talking about 1951, 1952 – the president of the university could have something to do with admission to law school. Unknown to me, Dr. Gray had arranged with Harold

Stassen for me to be admitted to the University of Pennsylvania Law School.

Hughes: We're talking *Ivy League* now.

Smith: Right. And that was his school. Dr. Gray got his doctorate from Penn. And so it was his determination that I would go to law school at the University of Pennsylvania because I had decided I wasn't going to medical school. And in Pennsylvania at that time, to go to law school you had to have a preceptor, a sponsor who would be responsible for you as you entered law school and as you completed law school.

Hughes: Something akin to the practice of "reading" law? … You needed someone to be a sponsor or a mentor?

Smith: Yeah, but it only related to admission to law school.

Hughes: This would be more like a reference than a mentor?

Smith: No, there was a relationship between the preceptor and the student. The preceptorship was a very formal relationship between a law student and a lawyer. And so this was required in the State of Pennsylvania, that to enter law school you needed to have a preceptor, a member of the Bar who would be willing to be a mentor, a sponsor.

Hughes: And who was that for Charles Z. Smith?

Smith: A lawyer whom I did not respect. He was the lawyer for the church. And Dr. Gray had arranged for him to be my preceptor. And I found out about it when this lawyer, whom I knew very well, invited me to lunch. He announced to me that he was happy to be my preceptor.

Hughes: And this was news to you?

Smith: News to me. So I decided I have to get control of my life. As much as Dr. Gray loved me, as much as he wanted to make sure I was successful, he didn't realize in his well-meaning way how he was controlling my life.

Hughes: How old were you then – 18 or 19?

Smith: I was past that. I came to Seattle, the first time in 1951. My mother lived in Seattle, so I came to Seattle to visit her. Mt. Rainier was visible; Lake Washington was clear blue.

Hughes: No traffic jams either – at least then.

Smith: "If they have a law school here," I thought, "I'll go there" – and I could get out of going to the University of Pennsylvania.

Hughes: It's 1952, and you're about to disappoint once again this man who has invested so much in you, and whom you love as well. Is that fair to say?

Smith: Right, absolutely.

Hughes: Was he like a second father to you?

Smith: Absolutely.

Hughes: So here you are asserting yourself. You've been away. You've been in the service. You've risen quickly to a key NCO position at 18, and now he's telling you where to go to law school. This is getting a little too controlling all over again?

Smith: Right.

Hughes: And so what was his reaction to this latest development? Did he go, "Damn you, ingrate kid! Will you just listen to me? Look what I've done for you"? Were there some real sparks that flew there?

Smith: It was never expressed that way. I think that he was disappointed that I would pull away in the manner in which I did because my law school experience was very much like my Army experience. I came to Seattle to visit my mother, went out to the law school and got admitted. I wrote Dr. Gray a letter saying, "I'm not coming back to Philadelphia because I'm starting law school."

Hughes: Are these letters and notes that you leave behind, are they really this perfunctory, or are there at least some niceties?

Smith: There's no record of it. …

Hughes: You don't say, "Thank you for everything. Fondly, Charles"?

Smith: Oh no. However, Dr. Gray knew that I was very grateful to him. But at the same time I recognized that he was not *giving* me something. I worked wherever he was. I was always his number one assistant. And it was not a question of obligation or gratitude or anything else like that. Our relationship was such that I didn't have to say to him, "Thank you for what you have done for me." His wife is now 92, and I was recently at the house when she called me aside and said, "I want you to know how grateful we are for what you

have done for us." (Justice Smith is overcome by emotion.)

Hughes: What a wonderful moment after all those years.

Smith: She is like another mother to me. My children call her Aunt Hazel. So two years ago on Hazel's 90th birthday—

Hughes: Where is she living, judge?

Smith: She now lives in Miami. They were living in Virginia where Bill Gray III maintained his principal residence. His mother lived in her own apartment in the house. But they recently moved to somewhere in the Miami area, and Hazel is now living with them. Whenever I would go to Washington, D.C., I would always manage to visit with them. I have a son and daughter-in-law whose daughter, my granddaughter, is going to George Washington University, and they had a relationship with the Grays. … But back to Dr. Gray's reaction when I announced to him that I was not coming back to Philadelphia: It took him a long time to reconcile the fact that I was not being obstinate. My wife was for a long time of the opinion that he believed she was responsible for my decision because among other things I had told him I had met this young woman from Honolulu and I wanted to be closer to Honolulu.

Hughes: You met Eleanor Martinez, your future wife, in 1954?

Smith: Right.

Hughes: At the University of Washington when you were in law school. So you had already made this decision to come and see your mom in Seattle, been admitted to law school, and sent the letter to Dr. Gray long before you met Elie?

Smith: OK, there are two *different* letters. The first one was, "I'm not coming back to Philadelphia. Please send my clothes to me." That was when I entered law school. But in the meantime I still had not relieved myself of dependence on Dr. Gray. In the summer I would go back to Philadelphia because he always had a job for me. So after my first year of law school I went back to Philadelphia and worked during the summer. My second year of law school I went back to Philadelphia and worked during the summer. But it was my third year of law school where the bomb exploded. He thought I was coming back to Philadelphia after graduating from the University of Washington. And it was not any

agreement but it was sort of implicit that since I was coming back every summer that I'd get my law degree, and I'd come back, and he would be responsible for whoever I would be involved with – the law firm. So I wrote him this letter – it's what I call my "emancipation letter" – and indicated to him that I was graduating from law school. I would not be returning to Philadelphia. I had met this young woman from Honolulu, and I wanted to remain in Seattle so I would be readily accessible to Honolulu. And that was the basis upon which Elie claims that I gave Dr. Gray the impression that she was responsible for my breaking with him.

Hughes: Had he met Elie?

Smith: He met her for the first time in 1960 and literally fell in love with her and our children. They developed this close relationship over the years. He never really felt that she was responsible. He knew the truth of the matter based upon his history with me, because he probably knew my psychological profile much better than I ever would, and I think he knew what was going on my mind. But it was after then I had an understanding with Elie and our children that whenever I was back in the East that I would spend some time with Dr. Gray. And that helped to ameliorate the negative feelings. Not anger and not disappointment, but just the feeling of abandonment. And he was having health problems. He ultimately died of some form of cancer. But the renewal of our friendship and our relationship was reestablished by my visiting him whenever I was in the East. And of course Elie and the children grew to adore him.

One time he had a meeting in Portland and called me and asked me how far Portland was from Seattle. He wanted to come and visit Elie and me and the children. And I said to him, "Don't come to Seattle. We'll meet you in Portland." So we drove down to Portland in a storm, and we had dinner with him.

Hughes: What year would that have been?

Smith: 1972. But the significance of this was he left the meeting in Portland and went to New York, and died in a hotel room. (Justice Smith is overcome by emotion)

Hughes: Right after you had seen him.

Smith: We were the last members of the family to see him.

Hughes: That's a wonderful story.

Smith: But his children considered themselves my sister and my brother. They understood my decision to "emancipate" myself. We talked about it. His daughter was a Ph.D, a professor at Howard University. So we were regularly in touch, and she would come to Seattle to visit.



Dr. Marion Gray Secundy, foster sister, center in red, visits the Smiths, Feb. 15, 1997
Charles Z. Smith Collection

Hughes: But the emotion that's swelling up here now at these memories – there's no regrets in anything you decided to do? I mean in terms of self actualization and asserting yourself, you don't have any misgivings do you, judge?

Smith: No. And we came to terms with it. He understood, and I felt that I was right. I never felt that I had done anything wrong.

Hughes: And he came to see that too, didn't he?

Smith: Yeah. He did.

Hughes: He must have been a really remarkable person. Apart from this wonderful story of this relationship with this young man who achieves so much, was he a really notable person academically?

Smith: Dr. Gray was one of a handful of black college presidents with Ph.Ds. At one time there were only five. And so his prominence in the academic field rose out of the fact that he was an outstanding college administrator, a leader in the field. And getting into the

segregation aspect of it, the Southern governors had a consortium of colleges in the Deep South that were designed to keep blacks from applying to professional schools. And so in Florida we had what was called the Out-of-State Scholarship Program, where if you were black and applied to the University of Florida Law School they would refer your application to our office. And we would pay from state funds partial tuition if you went to school somewhere else. And so depending on the tuition at the other schools, it was either $300 or $600. In those days, tuition wasn't that high. It was never adequate, but it was the device that the Southern governors employed to stop the blacks from applying for and getting admitted to the law schools and the medical schools in their home states. So if I wanted to go to law school in Florida at that time, I would not have been admitted.

Hughes: How much did law school cost at the University of Washington, circa 1953? Any recollections of that?

Smith: Absolutely. I paid $50 a quarter for law school – actually $37.50 a quarter. And the reason is because tuition for in-state students was $75 a quarter and I had established residence. And so I would have paid $75, but my GI Bill had lapsed, so the university had this wonderful provision that if your GI Bill had lapsed they would halve your tuition. So I went through law school at $37.50 a quarter.

Hughes: Was there any trouble getting into the UW law school? How many people of color were there in the Law School then?

Smith: Well, I'll tell you how I got admitted: I walked in the door and A. John Nicholson, who was then the assistant dean, said, "Do you have a transcript?" I had a copy of my transcript in my pocket and I handed it to him. He looked at it, and said, "You're admitted."

Hughes: Just like that?

Smith: Yeah! Our class started out with 120. There were three blacks and one Asian/Japanese.

Hughes: Any females?

Smith: We had six or eight. But at the end of the first year I was the only person of color remaining in the class. Now this requires a little bit of history: There was a common belief on the part of many blacks that the system is so determined to eliminate you from

participation that the system would not permit a black person to make it through law school, which wasn't true because we had a black person who graduated in 1904, and we had one who graduated in 1905, and one who graduated in 1927, and one who graduated in 1952. I knew the one who graduated in '27 and the other one who graduated in '52, but I didn't know those who graduated in 1904, 1905. … I started in 1952 and graduated in '55.

Hughes: Is retired U.S. District Judge Frank Burgess a contemporary of yours?

Smith: Yes, but Frank went to Gonzaga.

Hughes: He's about your age isn't he?

Smith: Frank is younger than I am by a few years. But (future U.S. District Court judge) Jack Tanner graduated from the University of Washington and marched in the same line with me in 1955. But Jack always insisted that he was a member of the Class '52. He had been out for some reason, then came back to law school and then completed his law school work. So when we had our graduation, because I'm "S" and he was "T" we marched in the same line. My wife gets annoyed when it is reported that I was the only member of my class to graduate who was black, because she notes "Jack was in your class." At any rate, one of the persons in my class – his name is not relevant here – complained to the professors about socio-metric exclusion of blacks through the examination process. But because law school grades are on a blind system, the professors don't know whose papers they are correcting. So when this particular professor said to this student, "How can you explain Charlie Smith?" He said, "Oh, he types his examinations and you can't trace his handwriting."

Hughes: Is that true?

Smith: I always typed my examinations, but that had nothing to do with the question, because I know that I'm bright and there is no way that I could be enrolled in the class and could not do well. And even if there was systematic exclusion, it would not have applied to me.

Hughes: Do you think in point of fact that there was a program of systematic exclusion?

Smith: Absolutely not, because I knew all my professors.

Hughes: Was the University of Washington School of Law in that respect something of a

trailblazer in terms of equal opportunity? Notwithstanding the fact that not many people of color applied …

Smith: Well, again you have to look at it several different ways. Blacks would apply and not make it through the first year.

Hughes: Because they didn't have the intellectual right stuff?

Smith: Actually, I think it is test wisdom. I'm test wise. I could pass any standardized test whether it is essay or whether it is mechanical, except mathematics and except chemistry. (chuckling) So put a test before me and give me overnight to review it and I can pass it. It never occurred to me, and it still does not occur to me, that the elimination of blacks from the University of Washington Law School had anything whatever to do with their planned exclusion. Because whites were dropping out, too. We started out with 120 and we graduated 68.

Hughes: Did you make good friends and find you were well accepted in the camaraderie of the University of Washington Law School?

Smith: Our class was so close that even now we can recognize each other's voices. They are all my friends.

Hughes: Supreme Court Justices Keith Callow and Robert Utter just preceded you as clerks for Justice Matthew Hill, and they were contemporaries of yours (at the UW)?

Smith: Yeah, they were ahead of me – '54, and I was Class of '55.

Hughes: Who were some of those great and good friends you made then?

Smith: Well, every member of my class who is still alive.

Hughes: Is there some event where you routinely get together?

Smith: Periodically we do. … But it's almost as if I had seen them last week. For some reason or another we were a very close-knit group of people. Our fiancés and girlfriends were part of the group, and our children were born, and we attended weddings. So the second generation doesn't know who we are, but we still know who we are.

Hughes: Are there other members of that class and friends of yours who had notable achievements as well? Any other judges?

Smith: I think I was the first judge, probably the only judge. In the class, was a future

administrative law judge, Roderick Dimoff. He was a character in law school. Rod was a cellist and he ran for ASUW president. He used a violin in his campaign and played on the Suzzallo Library steps.

Hughes: That's a good campaign gimmick.

Smith: Other members of my class who became judges were Tom Parker in Aberdeen, where you were a publisher; Joel A.C. Rindal of Bellevue District Court, and Spirro Damis, Pierce County District Court. … When I was appointed to the Supreme Court I got calls from classmates: "What can I do to help you?" And so all of this is to say that in terms of acceptance or non-acceptance because of my race it was never a problem because it was just a wonderful world. And in a few years I lived in this very wonderful close world with my classmates and my friends and my professors whom I fell in love with, and they were my friends until they died.

Hughes: And things got better yet, because as Shakespeare wrote, "Journeys end in lovers meeting." You met a pretty special woman, didn't you?

Smith: Oh yes!

Hughes: Tell us about Eleanor Martinez. Some people have written that she's Japanese, but she's really an ethnic Puerto Rican, isn't she?

Smith: She's an ethnic Puerto Rican born in Hawaii. And her parents are first generation Hawaii-born. Her grandparents came to Hawaii from Puerto Rico around the turn of the century when the pineapple fields were recruiting workers. And for some reason or the other, they recruited from San Juan. Elie graduated from the University of Hawaii in 1953 and had applied for a job in Washington State. She wanted a mainland experience. She had never lived on the mainland. She had been to New York once.

Hughes: Where did they live in Hawaii?

Smith: In Honolulu. ...The Washington Department of Education referred her to Seattle schools. And Seattle schools referred her to an elementary school because that was her field. The principal of the elementary school had just spent a few weeks in Hawaii, and he saw on this application the University of Hawaii. She was offered a position as a teacher.

So she was teaching at Sunny Dale Elementary School in the Burien area in a bedroom community where everybody was family and older than she. She decided to have some involvement with people in her own age group. So she enrolled in a course in Spanish at the University of Washington.

Hughes: Are you bilingual? Did you ever pick up the Spanish of your Latino ancestry?

Smith: We play around. If I'm in Puerto Rico or somewhere else where the language is being spoken I can understand it, but I disclaim being bilingual. I'm partially bilingual. We play around with the language in our family, email, communications interspersed with Spanish words.

Hughes: I grew up in an era where you still took three years of Latin. Did you take Latin or study any of those classical languages along the way?

Smith: I never took Latin.

Hughes: You didn't miss a lot. … So back to Elie: How did you meet this lovely young woman?

Smith: She enrolled in the class at the University. And she would get the Greyhound Bus from Burien on Highway 99 and go into the bus station, get a transit bus from there to the University for her class once a week. And the class was from 7 until 9. She would eat in the HUB before her class. Jack Tanner, who happened to be in law school at the time, thought she was somebody else that he was supposed to meet. So he followed her through the line and got her permission to sit with her at her table. My gang of six would go to dinner together and we descended on them. And whenever we saw somebody from law school – male persons with a young woman – we would move in and try to take over the conversation. So we saw Jack with this young woman and we moved in. I learned enough about her to decide that I had to see her again. So I found out from Jack that she would come into the University every Tuesday. And that if I wanted to see her again, he didn't know her; he just knew what her name was, and she would be at the HUB. So I decided to abandon my gang from the law school the next Tuesday and I camped out at the HUB until she showed up. She went through the line, and I was right behind her. And

to her shock and horror she had left her wallet at home. She didn't have money to pay for her meal, all of 74 cents. So I said to her, "Do you mind if I pay for your meal?" She had no choice, so she said "Yes." And I said, "Do you mind if I sit at the table with you?" And she said, "No problem." Then my law school buddies descended on us and I realized that none of them knew or understood the Spanish language. And this is where the language comes into play. Because I knew that Elie's family background was Spanish, and she was studying Spanish at the University, in my minimal Spanish, we just switched from English to Spanish so that nobody could understand it.

Hughes: That's just great stuff!

Smith: And so that was my initial meeting with her. And I hope you're not bored by this.

Hughes: I'm not bored at all!

Smith: I did not own an automobile of my own, but my sister did and she let me use her car whenever I needed it. So I found out that Elie was getting the Greyhound Bus on Highway 99 in the dark in Burien to come in and go back. I told her I was very concerned about her safety. I said, "Would you allow me to drive you home after your classes on Tuesdays?" And she said, "No, I do not wish to be involved."

Hughes: You thought you had made a better impression than that, didn't you?

Smith: So I said to her, "Will you let me take you home if it rains?" And she said, "OK." I prayed for rain! It rained every Tuesday, so I was able to drive her home from the University to Burien. I first met her on February 14, 1955, and by the time graduation came around —

Hughes: You're kidding me! That's Valentine's Day.

Smith: Yeah, it happened coincidentally that it was then, and it makes it easier for me to remember. But at the time I did not connect it. We later went to dinner, that kind of thing. She stayed through my graduation from law school in June of 1955. My recollection is that she said to me, "Goodbye. I wish never to see you again." She says that isn't true. But I knew that she was going back to Hawaii. So her plans I think were uncertain. She always wanted to go to South America. So I decided to bombard her with letters every day.

Hughes: This is a wonderful story. Keep going!

Smith: So from June until August she got a letter from me every day. (Justice Smith is choked with emotion at the memory)

Hughes: And these were not terse letters …

Smith: They were *long* letters. But at any rate, I had asked her to marry me and she had turned me down. Then one day I got this letter from her that said she changed her mind. So she decided to come back to Seattle and we were married on August 20, 1955. And we're still married. (Justice Smith beams)



Charles and Eleanor Smith on their wedding day, 1955
Charles Z. Smith Collection

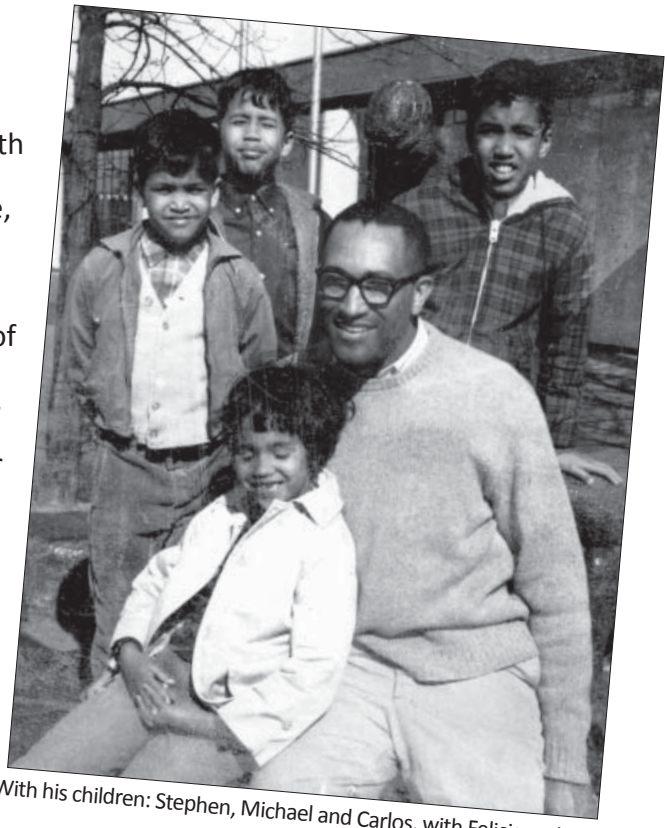
Hughes: Congratulations! … That's a wonderful story. … So we have a half Cuban, half black boy from Florida who marries a girl from Hawaii with Puerto Rican roots and you have four children. Is that right?

Smith: Right.

Hughes: Did they take spouses of different ethnicities? My eldest daughter is Korean and her significant other is a nice Jewish boy with dark curly hair. I'd love to see those grandchildren.

Smith: Well, welcome to the club! My eldest son Carlos, who carries the name Carlos Martinez Smith, is married to a Seattle-born Japanese, and they are the parents of my first grandchild, who is a junior at George Washington. Phenomenally bright, phenomenally beautiful, and they are wonderful, wonderful, wonderful parents. To see how my son and my daughter-in-law have reared their daughter is just worth everything on Earth. And my first grandchild … I fell in love with her. And they allowed me to hold her shortly after she was born, so she's my real heart. But so are each of my grandchildren in very different ways. My number two son, Michael, recently was married in California, and his wife is white Irish Catholic. My number three son, Stephen, is divorced. His wife was Japan-born. Her father was black; her mother

is Japanese. They have a son whose name is Miguel Akira, and he identifies strongly with Japanese because he spends a lot of time with his Japanese grandmother. … But at any rate, I have this grandson who is Japanese, and black, and Puerto Rican, and Cuban, and all of this together. And then my daughter, Felicia, who is our only girl, is an immigration lawyer in Seattle. And she's Jewish because her husband Matthew is Jewish.



With his children: Stephen, Michael and Carlos, with Felicia on his lap
Charles Z. Smith Collection

Hughes: I think that's just amazing. Talk about the "American mosaic."

Smith: And Matthew's mother is Parisian French, graduate of the Sorbonne, and she headed the French Department at Vassar where my daughter went to school. That's where she met Matthew. They have two children. … Matthew qualified for the Jewish Olympics in squash. He and Felicia went to Israel for that event. And while there, Matthew was Bar Mitzvahed in a mass Bar Mitzvah at the age of 32.

Hughes: I've never heard of such a thing. That's neat.

Smith: So Matthew came back and he was a confirmed Jew. In the meantime, my daughter felt that their children needed to have a religious anchor and she started attending Temple Beth Am in the north end of Seattle, where it's about as liberal a synagogue as one can find. And so my 17-year-old grandson, their son, was Bar Mitzvahed three years ago. He's fluent in Hebrew. His paternal grandfather came to his Bar Mitzvah and was overwhelmed by his grandson's presentation at his Bar Mitzvah.

Hughes: I love Bar Mitzvahs. Bar Mitzvahs are as good a rite of passage as you can get.

Smith: My grandson is 17 and his sister is 10. And in their family, their second language was French. Matthew is fluent in French because he went one year with his

grandmother in Paris, and one year in New York. So Felicia was bringing up the children with French as their second language. In the meantime they enrolled Taliya, my 10-year-old granddaughter, in the John Stanford School. Are you familiar with John Stanford International School?

Hughes: I am. It's an innovative public grade school in Seattle.

Smith: And the Spanish immersion program?

Hughes: I think it was the fellow who wrote "Everything You Need to Know, You Learned in Kindergarten" who reminded us that children are these amazing cognitive sponges. They don't say "I can't dance." "I can't sing." "I can't play the piano." "I can't speak French." And if you give them that opportunity to learn something at a young age they just slurp it up.

Smith: Taliya has been in the John Stanford School since she started in kindergarten, and I think she's now in the equivalent of the fifth or sixth grade. So the family decided that because she was learning Spanish and because Felicia's background included a little Spanish, and Matthew also was conversant in Spanish as well as French, they decided to use as the family's second language, Spanish. So now I can call and speak to one of the children in Spanish and they understand it.

Hughes: Now let's go back to 1955 and talk about immersion. It's been written that clerking for Justice Matthew Hill left an "Indelible imprint on you." Is that an accurate quote?

Smith: Absolutely.

Hughes: Tell us about Justice Hill and that experience.

Smith: He was brilliant, kind, community oriented, involved in church activities; he was a teetotaler —

Hughes: And like you, also a Baptist.

Smith: In fact he had served as vice-president of the American Baptist Churches, for which I subsequently served as president.

Hughes: Did he know that about you when he was looking at a prospective clerk?

Smith: No, the history of my clerking for Matt Hill was that, number one, no Seattle law firm would interview me when I got out of law school.

Hughes: In 1955, no Seattle law firm would interview a young black attorney?

Smith: Right.

Hughes: No matter how bright?

Smith: Right. It wouldn't make any difference.

Hughes: It's kind of hard to believe, isn't it? I guess 1950s Seattle was a pretty insular town, wasn't it?

Smith: It was, and there was prejudice against women as well. Betty Fletcher, now on the United States Court of Appeals, was the first woman partner in a major law firm in Seattle. Betty graduated from the UW the year after I did. But again the history of my working for Matt Hill came about this way: Harry Cross, who was one of my professors, called Justices Hugh Rosellini, Frank Weaver and Matt Hill to interview me.

Hughes: Was Hugh Rosellini Gov. Al Rosellini's brother?

Smith: No, a cousin – distant cousin. But they joked about their relationship. … So Hugh interviewed me; Frank interviewed me, and Matt Hill interviewed me. And a couple of days later I got a handwritten letter from Matt Hill saying, "If you are of the mind to come to work for me, I'd like to have you." (Justice Smith chokes back tears at the memory)

Hughes: I've got to tell you, judge, the genuine emotion that wells up in you when we're remembering these key moments is so touching. You've had this remarkable life and you can transport yourself back to what it was like to get that letter. The emotion is palpable. I've got goose flesh. … Were you in fact the first person of color to ever clerk at the Washington State Supreme Court?

Smith: I was. But again, not a big deal.

Hughes: But you knew when you had that piece of paper in your hand what that meant to you and maybe others?

Smith: Well, I wouldn't have thought of it in terms of black and white. I thought of it in terms of an opportunity to work in my profession. At that time I was not convinced that I wanted to be a lawyer.

Hughes: Were you thinking back to social work again?

Smith: I hadn't quite made up my mind. When I went into law school I wasn't going to go

all the way through. But I liked it so much that I went through.

Hughes: You separated yourself from Dr. Gray. You came out here to a brand new place, for a new start. You got into law school by just showing your transcript, and all of a sudden you had a coveted clerkship. You're *in*. But you *still* weren't convinced you wanted to be a lawyer?

Smith: Well, once I got in to law school I liked it, so I decided that I would complete law school, which I did. I decided I would take the bar examination, which I did. But at that point I wasn't sure if I wanted to practice law.

Hughes: What did you think you wanted to do?

Smith: I wasn't *quite* sure.

Hughes: You were married by then.

Smith: I was married. And this is where Matt's fatherly counsel came into play. He said, "I think what you should do is to observe some good lawyers who practice before this court, and it will help you to decide whether you want to practice law." So he gave me the names of three lawyers, John Gavin, Fred Velikanje and John Rupp. … I took his advice and observed them. I read their briefs, saw the mastery with which they used language, and with which they presented themselves in terms of their demeanor before the court. And then I had my epiphany: "If they're lawyers, I want to be one."

Hughes: Those three fellows, did they become mentors and lifelong friends?

Smith: Lifelong friends, but not mentors. But yeah, in the sense that I got to know them and would frequently tell them, "You're responsible for my making the decision." … That's the kind of thing that Matt Hill would do. I didn't have to worry after then whether I wanted to practice law.

Hughes: What were some lessons you learned from clerking for Justice Hill?

Smith: Well, working for Matt Hill was very unique. He was an early riser. He would be in his office regardless of what time you got there. If you got there at 5, 6 or 7 o'clock in the morning, Matt Hill was already there. He would walk from his house down the road to the court. He didn't drive, as you may have heard. His wife always drove for him, and if she didn't drive, his law clerks drove for him. So that gave us and me the privilege of



Justice Matthew W. Hill with his law clerk, Charles Z. Smith, 1955
Washington State Supreme Court Collection

getting to know him very well because I drove him different places to his many speaking engagements all over the state.

Hughes: He was a peripatetic speaker, wasn't he? He loved to do that?

Smith: Just a magnificent speaker.

Hughes: What were his themes? Patriotism? Law? The rule of law?

Smith: A combination of all of those. You name the subject.

Hughes: And he was good at it?

Smith: He could hold an audience. He was a hard worker. He'd always read the briefs, and he was always on top of the case that was before him. I don't remember whether the assignment in those days was like the assignment in later days where we knew which case we were going to hear. But it was his persistence in doing a good job. We didn't have computers in those days so most of the writing was done by hand.

Hughes: But you could take shorthand.

Smith: But I didn't have to in my connection with his work because he had a secretary – we now call them administrative assistants – Deena, who was very good. I would do prehearing memoranda but I would type them.

Hughes: Are you a good typist, too?

Smith: I'm a champion typist.

Hughes: How fast could you type in your heyday?

Smith: Back in the old days when the IBM (electric typewriter) was first invented, I could

do 220 words a minute before the machine would hang up. I also taught business courses in Philadelphia – shorthand, typewriting, and business machines.

Hughes: Do you remember any case that you worked on that was particularly meaningful, or a real eye-opener for you?

Smith: I really don't. Actually, there's one, and it had to do with misconduct of prosecutors. King County Prosecutor Charles O. Carroll had a deputy whose name was Larry Regal, R-e-g-a-l, who later became one of my dear friends, in fact a mentor for me. And Larry was a flamboyant prosecutor. Never read a case; never did anything else. He knew how to persuade a jury. There was a rape case, and Larry said to the jury words to this effect, "I am sure you will agree with me that this young woman was raped." That was the quote. It came before the Supreme Court and Matt Hill wrote the opinion that said, "It is unethical for prosecutors to express their personal belief in the guilt or innocence of an accused."

Hughes: He could have asserted to the jury that the facts, the evidence at hand, would lead to that conclusion?

Smith: Right. And so that impressed me then. Later, I really got to know Larry. In fact, Larry and I tried the Dave Beck case together. So I learned a lot from Larry Regal. He was an outstanding lawyer. He just was nonacademic, and he wouldn't read anything. But he grasped the facts of the case and he would do a great job before a jury. And so I had this combination of having remembered the case against him that Matt Hill wrote. That is the only case that I can remember.

Hughes: It's always interesting to me that when you do research all sorts of overlapping, interlocking things pop up. Gordon Walgren, who went on to become a powerful state legislator and was indicted in the so-called "Gamscam" case in 1980, clerked for Justice Hill in 1957.

Smith: Right.

Hughes: Did you know Senator Walgren at that time, or in later years?

Smith: Gordon was in law school a year behind me. … So I knew Gordon when he was in law school, and of course when he was in practice. In fact, when I was on the American Bar

Committee on Federal Judiciary, I was assigned to evaluate his qualifications for the federal court. As I recall, Gordon withdrew his candidacy from that activity so I did not have to, in fact, do the investigation for him. But I did an investigation for Jack Tanner and for one other person; there were three of them who were being considered at that time. Gordon subsequently was indicted, but then his case was set aside after he had been convicted.

Hughes: How long does a clerkship last?

Smith: Normally it would be a year, but I was not here for a full year.

Hughes: Anything interesting about that fact?

Smith: Yeah.

Hughes: You're smiling that smile.

Smith: Well, Chuck Carroll—

Hughes: Charles O. Carroll, the well known King County prosecutor.

Smith: He had interviewed me and told me he could not hire me because he already had a black on his staff, Herbert Stephens.

Hughes: So one's enough, eh?

Smith: Yeah. That was it.

Hughes: You don't want to have too many blacks.

Smith: That was Chuck's style. He had one of each. He didn't have any Asians at all so when I was there I hired the first Asian, Liem Tui. … But at any rate, he had a Greek, he had an Italian, he had a black.

Hughes: This sounds like a bad joke.

Smith: Yeah. And that was Chuck's style. So having interviewed with him and having been told by him that he could not hire me because he already had one, the next thing I knew Matt Hill called me in his office and said he had a call from Chuck Carroll, who wanted Matt to release me from my obligation as his clerk so that I could come to work for him in the Prosecutor's Office.

Hughes: How did Carroll come to want two black men on his staff?

Smith: I don't know how he came to that conclusion, but he probably decided that I would be of more value to him working for him than not working for him. And so I went there,

and he required us to be Republicans. I had had no political affiliation at all.

Hughes: Thank you for getting back to a question I skipped over, hoping it would come up again: Growing up in the crucible of the Depression, Franklin Delano Roosevelt was the only president you'd known from 1933 to 1945 when he died in office. In your household, or Dr. Gray's household were there political leanings?

Smith: Well, my own family was a nonpolitical family. We were survivors. I remember Roosevelt but I also remember Hoover. But I never thought in terms of Republican or Democrat because as I was growing up, being involved in politics was not a usual thing. When I was living in Philadelphia and living with the Grays, Dr. Gray was a Republican.

Hughes: A Black Republican, and of course we're talking about the "Party of Lincoln."

Smith: Right. And so he ran for Congress on the Republican ticket. That's how he knew Harold Stassen. But again, when I was here in law school, politics was not part of my interest. And when I went to work for Chuck Carroll I was more amused than anything else because this is the way he decided to hire me. He brought two black Republicans in and introduced them to me. And then he announced to his Republican friends that he had hired me because I had been recommended by these Republicans.

Hughes: Now is this artifice or a true story?

Smith: It's true as I told it, but the reality is that he did not hire me because they had recommended it, because he knew me better than they knew me. It was a fellow named Prentice Frazier, who ran a bail bonding agency, and Charlie Stokes who was a state legislator at the time. That was Chuck's style where in order to justify bringing in the second black into his office, he had to have something special.

Hughes: Did Charles O. Carroll put an avuncular arm around your shoulders, and say, "By the way, Charlie, you are going to be a Republican activist, right?" Get out some signs, doorbell or whatever?

Smith: Well, we didn't have a choice. It was anathema to mention the word Democrat. And you dare not look twice at a Democrat candidate. We were required to participate in Republican activities. I was ultimately the chairperson of King County Young Lawyers for Nixon in 1960.

Hughes: Was your heart really in that as time went on, or was that just something you felt you needed to do to get along?

Smith: Like any other activity, it's fun. By that time, I did all of Chuck's speaking engagements for him because I'm a very good speaker, and Chuck was not a very good speaker. So whenever he had a speaking engagement he would send me. I was speaking to all kinds of Republican groups, so they just adored me. Not that I seek adoration, but it never occurred to me to wish otherwise, you know to say, "I wish I didn't have to do this." Or, "I wish I was a Democrat," or something like that.

Hughes: But philosophically was the Republican platform something you believed in? We're talking about the Eisenhower era. … So philosophically there was nothing there that really rankled you?

Smith: I never thought of the philosophy of either of the parties. I was always offended by the assertion by the Republicans that you ought to be a Republican because that was the "Party of Lincoln" because I am not a Lincoln fan. Lincoln only did what was politically expedient, and his goal was to save the Union, not to free the slaves. And I really was not identifying with the slaves, even though in my history I have some slaves in my background. So I never thought of it philosophically. In fact, even now I have difficulty separating Republicanism from Democratism, except by the titular representatives of the parties. For example, take the McCain-Obama thing. I think that if you put a Democrat label on McCain, and the label of Republican on Obama, you wouldn't be able to say they are on the wrong side of the street. I still don't understand the distinction between Republicans and Democrats when it comes to pure philosophy because I never studied it.

Hughes: I have a question that I picked up from Senator Slade Gorton. Then I turned around and used it on him one time: "Tell me the Democrat you most wish was a Republican." And without hesitation he said, "Gary Locke," who in 1996 became the first Asian-American governor outside of Hawaii. And he said something to the effect that "there's often not a dime's worth of difference philosophically between bright and thoughtful people in either party."

Smith: For example, I'm a fan of Dan Evans. … And if somebody says, "Are you a

Republican?" I say, "Well, I'm a Dan Evans Republican."

Hughes: Did you meet Richard M. Nixon, by the way, as the head of the Young Lawyers for Nixon?

Smith: No, I never met him and I'm glad I didn't because I would have been contaminated.

Hughes: So, now you're a young deputy prosecutor in the King County Prosecutor's Office. Let's talk about the most celebrated thing you did during that time. I'd like to get a fresh take on your role in the prosecution of Teamsters Union President Dave Beck, and what the charges were against him. I read, by the way, that Beck was often referred to as the "Business Man of Labor." And reportedly was offered the post of Secretary of Labor by Truman and Eisenhower. He'd been on the cover of *Time*, *Newsweek*. And Senators Henry M. Jackson and Warren Magnuson were close political friends of his. How did this prosecution come down?



Dave Beck, President, 1952-1957
International Brotherhood of Teamsters

Smith: I have long stories to tell!

Hughes: That's fine. We can do some today and some later. No problem.

Smith: OK. … During the period of the McClellan Committee Hearings, which had the title of Senate Select Committee on Improper Activities in the Labor or Management Field, Bob Kennedy was chief counsel.

Hughes: At the age of something like 30, wasn't he?

Smith: Yeah, something like that.

(Editor's Note: Robert F. Kennedy was 32 in 1957. His brother, Sen. John F. Kennedy, and Sen. Barry Goldwater were members of the committee. Robert Kennedy left the Senate committee in late 1959 to manage his brother's presidential campaign.)

Smith: Dave Beck was brought before that committee and took the Fifth Amendment 117 times. In the Seattle area, people in the legal profession were up in arms saying that a

grand jury should be called to investigate his activities in the Seattle area. Grand juries are not commonly used in the state court system. And in King County the pervious grand jury had not been called for 20 years. So the King County Superior Court judges, though non-partisan, nevertheless were politicians and decided to go with the groundswell of public demand and they called a grand jury. Under the circumstances, the prosecuting attorney for King County had the responsibility for presenting the case to the grand jury. We didn't have anything to go on.

Hughes: You really had no bill of particulars to go after Dave Beck?

Smith: Had *nothing* to go on. But we had an accountant, William Marx. Laurence D. Regal and I were assigned to the grand jury. Chuck Carroll was nominally in charge because he was the elected prosecutor. I did all the research for whatever issues came up. And we had two lawyers from private practice, William O. Devlin and Victor Lawrence. So we had the private lawyers, Larry Regal, Charlie Smith, and technically Charles O. Carroll in charge of the grand jury. Bill Marx was the accountant. So somehow or the other, one of the grand jurors had a neighbor who had heard that Cadillacs belonging to the Teamsters Union were being sold.

Hughes: With the profits going back to the Becks?

Smith: That was the underlying assumption.

Hughes: That would have been Beck Sr. and Jr.?

Smith: Right. So at that point we didn't even know what we were dealing with. However, through the Department of Licensing, we determined that there were four Cadillac automobiles licensed to the Teamsters Union that suddenly were licensed to private persons. And that was the thread by which we proceeded with our grand jury investigation. So we started checking records, including personal bank records. We had subpoenas to cover all of those. And we determined that there were these four automobiles that were suddenly transferred from ownership in the Teamsters Union to individuals. And that checks to cover the cost of them were written to quote, "Mr. Dave Beck."

Hughes: What a coincidence.

Smith: The checks were deposited in an account that Dave Beck had set up to receive those funds. And there was never any movement in that account in which the checks were deposited. And part of our inquiry was, "Did you receive these monies?" We never called Dave Beck himself, but we did call Dave Beck Jr., who was ultimately indicted along with his father. The question was, "What happened to the money?" And Dave Beck's response through his lawyers was, "I received the money but I paid it to the Teamsters Union." There was no way that they could establish that any money left this special account.

Hughes: No disbursement?

Smith: Right. Money in and nothing out. So the foundation of our case was the sale of automobiles by Junior to his friends. They were all personal friends of Dave Beck Jr., and the checks written to Mr. Dave Beck, deposited in Dave Beck's special account, and no money was ever paid out of it. So we came up with a plan. I probably designed the case; it doesn't matter who was responsible. But I had the theory that this was grand larceny and embezzlement of the property of the Teamsters Union – money and property. So we prepared an indictment that was submitted to the grand jury. The grand jury voted a true bill, which meant the case would proceed to trial. All of this was new procedure for us. We were nevertheless paving the way for the procedure. And I was quote, "The expert on grand juries."

Hughes: Is that so?

Smith: Well, I probably knew more about grand juries than anybody else did, even then and even now. So when the case came to trial in King County Superior Court, the judge who was assigned the case was George H. Revelle.

Hughes: Any relation to Randy Revelle, the future King County Executive?

Smith: Randy's father. George Revelle, who was one of my mentors, was such a great judge. I think we tried Dave Beck Sr. first. And his lawyers were so impressed with the way George Revelle conducted the trial that when Junior's case came up a few weeks later they requested that George Revelle preside over the case. So Judge Revelle presided over Dave Beck Sr.'s case and over Dave Beck Jr.'s case. And then they each were appealed.

Hughes: They were convicted?

Smith: They were convicted by juries and they appealed the cases. I can't remember the sequence of events but I know that Gov. Al Rosellini pardoned Dave Beck Sr. So Dave Beck Sr. never served a day of his time in the grand larceny case. He was sent to prison for a 990, federal income tax violation,

Hughes: Oh OK. That clears something up because in Ronald Goldfarb's book about Robert F. Kennedy's role against organized crime, *Perfect Villains and Perfect Heroes*, you're quoted as saying, "My career was built on convicting two presidents of the Teamsters, neither of whom served one day of their sentences." So that confused me because I knew that Mr. Beck went to McNeil Island Penitentiary in '62.

Smith: He went in on an income tax violation, and I had nothing to do with that. That was a federal case.

Hughes: My notes tell me, and this is where an expert will unravel it, that the conviction for grand larceny concerning the sale of the Cadillac was upheld by the state Supreme Court in a rare four to four decision, which meant that the Superior Court decision stood.

Smith: Right.

Hughes: And then enter Judge George Boldt, who became a household name years later in the Indian treaty rights case. He found Beck guilty of federal tax evasion.

Smith: Separate case.

Hughes: I see. Separate case. The book I read said that Beck was allowed to serve his sentences concurrently at McNeil. What was the other conviction for which he would have been serving a concurrent sentence?

Smith: There was none because Gov. Al Rosellini pardoned him from the state case.

Hughes: That's interesting.

Smith: And Mr. Nixon pardoned Jimmy Hoffa from my Chicago case.

Hughes: And President Ford pardoned Mr. Beck.

Smith: No. Oh, you mean on the federal case?

Hughes: Yes, Gerald R. Ford – a full pardon.

Smith: That I did not know.

Hughes: I used to run across Dave Beck at the 13 Coins restaurant in Seattle after there

was a Husky football game. Beck would be bigger than life and holding court there, and all the chefs with their flaming pans would kowtow to him. He seemed like a really interesting character. Did you ever run into Beck yourself?

Smith: Well, in the course of the trial of course I saw him. That was the only time I encountered him. But interestingly enough my greatest political support was from the Teamsters Union, all protégés of Dave Beck Sr. and friends of Dave Beck Jr.

Hughes: Why do you think that was, judge?

Smith: I've never really *fully* understood it except that when I worked for the federal government my job was to investigate mismanagement of pension funds—

Hughes: You were looking out for the little guy?

Smith: Yeah, and of course not because I chose it but that's what I was assigned to do.

Hughes: You've drawn some interesting assignments, haven't you?

Smith: But I always made it clear that the Western Conference of Teamsters was not vulnerable in my investigation because they were not self-funded. Prudential Insurance Company administered the pension fund for the Western Conference of Teamsters. And so in a sense, that was an accolade to the Western Conference of Teamsters that they were not considered to be crooks. And the Southeast, Southwest Areas pension fund with Mr. Hoffa, they were considered to be "crooks." So I think that the spillover from my public acknowledgment from time to time that in my home town we didn't have corrupt Teamsters was a factor. The leadership in the Teamsters Union sort of picked up on that. I could be in an airport; George Cavano comes up and puts his arms around me. (Editor's Note: Cavano was secretary-treasurer of Local 174, a backbone of the Teamsters in Seattle.)

Hughes: That's a wonderful story.

Smith: It was just amazing.

Hughes: What did you think of Beck when you really dug into his activities? He was a charismatic figure, wasn't he?

Smith: Well, in order to become leaders in the labor movement, as he did and as Jimmy Hoffa did, you had to be bright; you had to be assertive; you had to be ruthless to some



Dave Beck and Jimmy Hoffa, 1956
Detroit News

extent. The only label that I could put on Dave Beck was that he was an arrogant son of a bitch. And I don't have that same feeling about Mr. Hoffa.

Hughes: And yet Jimmy Hoffa in a lot of ways is characterized as having mob links.

Smith: I think the difference in my feelings may be that Dave Beck never acknowledged my presence. We were in trial for two weeks. I would see him every day and he never looked up and he never said "good morning" or anything else like that. Mr. Hoffa, to the contrary, would speak to me. Not that I'm looking for that kind of recognition, but I'm just comparing the two. Mr. Hoffa and I had an entirely different relationship because I was running grand juries for so long and he knew what was going on because his lawyers were involved and they were reporting to him everything that was going on. And one morning during the course of our trial, my secretary announced to me that Mr. Hoffa was there to see me. *We were in trial.*

Hughes: That's unprecedented, isn't it?

Smith: *Unprecedented!* I looked up and I said, "Mr. Hoffa, I cannot speak to you! You must get out of here. *Get* out of here! Get out of here." And I called his lawyers, who said, "You're kidding?"

Hughes: So Jimmy Hoffa did this all on his own?

Smith: Yeah, without consulting his lawyers. His lawyers and I happened to have a good relationship. They were first-class lawyers.

Hughes: I'll bet they were.

Smith: Chicago's best lawyers. One of them ultimately became a federal judge. But again, my relationship with Mr. Hoffa and my relationship with Mr. Beck were entirely different. I don't think Mr. Beck until his dying day ever knew who I was. Mr. Hoffa knew who I was

because our case in Chicago was 54 days, or 94 days or something like that, so I saw him every day.

Hughes: And Beck in his biography steadfastly maintained that he had done nothing wrong.

Smith: Right.

Hughes: So, two bright young attorneys and a good accountant got this assignment to go fishing and find something. Was there ever any doubt in your mind that they'd done crooked stuff?

Smith: Oh yeah. I concluded (that) because the legal theory we operated on was of my design. I did the research, and I reached the conclusion, and I saw … grand larceny – money and property belonging to the Teamsters Union … And the jury agreed. I had not remembered the four to four decision of the Supreme Court.

Hughes: So hard on the heels of that comes this tax evasion case?

Smith: Well, the tax evasion case occurred before the grand larceny case.

Hughes: To his dying day, Beck would rattle the saber that anyone that would write or say that he went to prison for federal tax evasion was guilty of a libel or slander because that just wasn't so.

Smith: Technically he was correct. Dave Beck was convicted of signing a false 1099 form, a union submitted form. And they were out to get him, the federal government, largely arising out of his response to Bob Kennedy and the McClellan Committee.

Hughes: When did that wrap up for you?

Smith: I went to Washington (D.C.) in 1960. Our case against Mr. Beck in King County was 1957.

Hughes: Were there notable things as a deputy prosecutor that happened over those next three years?

Smith: I frankly don't remember. I was trying cases, and I was in private practice for about a year, 1959-1960.

Hughes: You and I have managed to talk for nearly four hours, so what we ought to do is give our bottoms a break and resolve to take this up again and do the second half. Does

that work for you, judge?

Smith: That's fine. … I hope I haven't bored you too badly.

Hughes: I assure you that you have not bored me.

END OF INTERVIEW I

Charles Z. Smith

October 31, 2008

Interview II

Charles Z. Smith

November 12, 2008

Smith: Since our last session, I discovered that Nathaniel Sargeant, a black man who had graduated from the University of Illinois Law School, was elected a justice of the peace for Seabeck in Kitsap County in 1897. I came across it in reviewing a book called *Black History in the State of Washington*. I'd been running around acknowledging that I was the first black judge, and now I can't do that anymore.

Hughes: Well, but the key distinction, with all due respect to Mr. Sargeant, is — what is it you say in the judiciary, that he wasn't in a "general" court?

Smith: In a "court of general jurisdiction."

Hughes: And with regard to the Washington State Superior Courts, in 1966 you were also the first ethnic minority on a Superior Court bench in the state, weren't you?

Smith: Right.

Hughes: Well, here we are: We're back with Justice Charles Smith. It's November 12, 2008. Were you watching TV when Senator Obama crept inexorably toward 270 electoral votes and then was declared President-elect of the United States?

Smith: In a very passive way. And my wife, of course, is a diehard Obama fan. I have accepted him because he knocked my friend Hilary Clinton out of the nomination. Between him and McCain he was my choice. I watched the returns, and I was pleased with the returns, but I didn't have an emotional reaction to it.

Hughes: Really?

Smith: Until I was driving down the freeway and listening to some responses to the election and internally I had an emotional response to it. I was moved to tears. I'm still working through the idea of the significance of it. I'm not sure that I think of it in terms of the black- white thing. I think of it in terms of the evolution of the process by which we elect presidents. John F. Kennedy was the first Catholic. And that was a big concern at the time. Then he was elected and we no longer question whether the candidate is a Catholic or non-Catholic.

Hughes: I was a young Catholic in 1960. What an amazing event that was.

Smith: Right. So we talk about (a breakthrough for) "persons of color." It was Silvio Berlusconi, the Prime Minister of Italy who made a comment that I like. While attending a meeting in the Ukraine, he said of Obama, "He's brilliant. He's charismatic. He has vision and he has a beautiful suntan." And now Berlusconi is being soundly criticized by his opponents in Italy for being insensitive. I thought it was beautiful! Italians are swarthy of complexion and they pride themselves on being of a darker complexion than pure white, and then Berlusconi said Obama had a beautiful suntan. I thought it was great! What is it about Obama that makes this moment what it is? Here is a man who is not provincial. He's not a product of a farm background in North Dakota. He's born in Hawaii, grew up in Indonesia; has traveled the world and he's got roots in the continent of Africa. All of this makes him an extraordinary person. And he's extraordinary because, one, he's not white, and our country has reached the point where we can elect a president of the United States who is not a white male person.

Hughes: Did you like the senator's comment the next day when he was answering a question about what kind of dog the children might get. He said, "Well, probably a mutt, like me."

Smith: Oh yes. That one I liked.

Hughes: It was amazing to see Oprah Winfrey and Jesse Jackson in that huge crowd at Grant Park in Chicago on Election Night with tears streaming down their faces, although my wife said she thought Jesse might be crying because it was Obama who got elected and not him.

Smith: (laughing) Yeah, Jesse has to realize his day has passed.

Hughes: There's talk that Jesse Jr. might get that senatorial seat from Illinois when Obama resigns.

Smith: Right, and Jesse Jr. is making his own way. He's been, of course, a supporter of Obama from the beginning, but he has talent and he will represent the people of Illinois. He's now in Congress, and it's not that much difference between Congress and the Senate except procedure.

Hughes: For a fleeting moment on Election Night did it occur to you that that could have been Charles Z. Smith, or perhaps better yet, maybe now one of your grandchildren – that we've really cleared the way?

Smith: Not really. I have *never* thought of myself as a politician. And I never aspired myself to *any* political office. And so even though I may be a politician, at the same time I don't *claim* to be one. And my brother, Bill Gray, is a politician, a former majority whip in Congress.

Hughes: I read up on William H. Gray III, the son of your mentor. A former president of the United Negro College Fund, *Ebony* magazine listed him as one of the 100 "Most Important Blacks in the World in the 20th Century." He's a remarkable guy.

But before I forget this, we need to make an important digression because I'm not certain that I got your mother's maiden name in our first session.

Smith: Eva Love. My mother's father was Charles Love. And her mother's name was Julia Sellers, before marrying. So I knew my maternal grandparents.

Hughes: Were any of those people descendants of slaves?

Smith: My great-grandfather, who was William Love, was the product of a house slave and the owner of the plantation, or the director of the plantation. I'm not altogether certain.

Hughes: Where we left off last time was with the prosecution of Dave Beck. You stayed with the King County Prosecutor's Office through 1960?

Smith: Right.

Hughes: Tell us about Charles O. Carroll, the longtime King County prosecutor. What kind of a person was he?

Smith: Charles O. Carroll was a charismatic person. A politician of the first rank, he was an all-American football player at the University of Washington; he was a colonel in the Army, and his family was fairly comfortable. They owned the Carroll Jewelry Company in Seattle, and he had political smarts. He was a Republican, and he was prosecutor for about 25 years (1948-1970). He was very powerful and he had his own way of doing things. As I mentioned earlier, he had an ethnic slot for everybody. He had one Greek, one Italian, one black, and he didn't have any Asians until I came into the office. I hired Liem Tui, so we had

a Chinese in the office. But that was Chuck's style. He boasted that he had an office that consisted of people from *every* community, as he called it.

Hughes: That would not have been unusual, though, for a man of that era to think of things being segmented like that.

Smith: That's right, and I never considered it a negative at all. If you really want to know the *kind* of person he was, every year there would be a big dinner for the King County Prosecuting Attorney's Office. And Chuck Carroll would have up-and-coming entertainers. I recall somebody named Bonnie Guitar.

Hughes: She was a popular country and western singer back then. Her big hit was "Dark Moon."

Smith: He promoted her career. We also heard a singing group called the Brothers Four.

Hughes: Absolutely. They were fraternity brothers from the University of Washington.

Smith: Right. And there's a young woman who is blind who is now a famous singer, Diane Schuur.

Hughes: She's a fabulous jazz singer.

Smith: Chuck provided an opportunity for Diane Schuur to sing at one of our annual dinners when I think Diane was 14 or 15.

Hughes: Nobody knew about her then.

Smith: Right. And so that was one part of him, where he *literally* sponsored and encouraged the development of talent in the community – aside from legal talent. He prided himself on the fact that his office produced judges. Carolyn Dimmick, who is now on the United States Federal Court, was a former prosecutor in our office. At that time we had only one woman in the office and the woman was assigned to domestic relations cases, not criminal cases.

Hughes: Pigeonholed.

Smith: Yes. And back in the old days, in what were then called divorce cases, we had what was called a divorce proctor in the prosecuting attorney's office. The proctor would appear in court and object to default divorces. It was a technical objection, but Carolyn Dimmick was the divorce proctor in our office because that was the assignment for a woman. …

But at any rate, Chuck Carroll provided opportunities and he controlled the things. He had two blacks in the office. Herbert Stephens was already in the office when he brought me in, so he had two blacks in the office at the same time. And, as I mentioned yesterday, his explanation was that he had been requested by two Republicans to hire me.

Hughes: Was that a true story?

Smith: Not really. He had called Justice Matt Hill and asked if he would *release* me from my clerkship to come to work for him because he needed me. He had heard that I had some special talents, whatever they were – here I am just out of law school.

Hughes: Did he appreciate you for who you were, and not pigeonhole you as one of his two black Republican attorneys? Or was there patronizing going on there?

Smith: Sort of yes and no. I can't say he was not like a father to me. To give you some indication, here's a story: We bought a house out on the north end of Seattle and it was in a wooded area with pine trees. Chuck Carroll came out to my house one day and decided that the gutters needed to be cleaned. So he got on a ladder and went up and cleaned the pine cones and needles out of the gutters on my house. This was the kind of relationship that I had with him.

Hughes: I can picture that breaking some barriers!

Smith: And so I say this because Chuck and I did not see eye-to-eye on a lot of things.

Hughes: What kind of things – philosophical things, something to do with prosecuting?

Smith: No. And I would have to refer to an incident that happened after I came on the Supreme Court. Justice Jimmy Andersen was very close with Chuck Carroll, and Jimmy told me that Chuck wanted to talk with me. So I called him. And he began to *chew me out* for not giving him credit for my career. The year before I was appointed to the court (in 1988) they marked the anniversary of Bob Kennedy's death. And Lori f had interviewed me on Channel 5 about my relationship with Bob Kennedy. Somehow or the other Chuck Carroll decided that I was giving Bob Kennedy credit for my career. This was of course after I was on the Supreme Court. And I have to admit that I wasn't giving *anybody* credit for anything. Somehow or the other (during the interview) my relationship with Matt Hill became significant in my appointment: "He was appointed to the Supreme Court; he was a

law clerk for a Supreme Court Justice," and so that's a significant relationship.

Hughes: Robert F. Kennedy, meantime, is way better known that Charles O. Carroll.

Smith: Right. But Chuck proceeded to chew me out. He cursed me. It was the most offensive communication I've ever had from *anybody* at *any time*. But he was then 90 years old, and I knew him well enough to know that his rage and anger with me was a combination of many things. He felt he was being left out of recognition. … I listened to him for about 45 minutes.

Hughes: Forty-five minutes!?

Smith: Right. He just chewed me out royally; chewed me out for not giving him credit for my career, whatever that was. But going back a little earlier than that: When I was on the Seattle Municipal Court in 1965, I had made a speech at a service club that Chuck belonged to. I think it was Rotary. And I made the comment that he was one of the greatest prosecutors we ever had – just, you know, a gratuitous comment.

Hughes: Sure.

Smith: He was up for election, and he had challengers. I was out of town. I don't even know where I was, but there was a newspaper ad for Carroll, and it quoted me as saying, "Charles O. Carroll is the best prosecutor we've ever had." This, of course, was a violation of the Code of Judicial Conduct. And the newspapers were after me. They couldn't get hold of me because I was in meetings somewhere. I think I was back in Pennsylvania.

But my wife wrote a letter to Chuck Carroll. And she didn't tell me she had done it. She accused him of impropriety, of destroying my career by publishing this political ad using my name. I think the ad may even have had my picture in it. But at that point my wife created a rift between Chuck Carroll and me. And from that point on – it had to have been 1965 – he had very little to say to me.

But at any rate, his former deputies would have regular monthly meetings in Seattle usually at the Rainier Club. I was included only once.

Hughes: That was about as tony a club as there was at the time, wasn't it?

Smith: They used to have a special entrance for women, because women could not come in the front door. In any case, they would have monthly get-togethers to meet with Chuck

Carroll, and I was not included except on one occasion. Of course it didn't bother me because I didn't feel I was being excluded. I had more important things to do with my time than going to Seattle, or being in Seattle and going to this luncheon to tell Chuck what a wonderful person he was. And of course I *really* liked him. I felt that we had a rapport and I felt that Chuck in his manner was very fond of me. I did all these speeches for him because he wasn't a good speaker. So if he had a speaking engagement he'd send me. We had this wonderful relationship, but it went sour. And we didn't have any communication at all until the telephone call when he chewed me out. It had to have been 1988 or 1989.

Hughes: Were you able to get a word in edgewise? To say, you know, "But Chuck …"

Smith: No. I just listened to him because I knew he was aging, and I knew that he was angry, and I knew his personality. I felt terrible about it for the reason that it was true that inadvertently I had not acknowledged his relationship with me. So in my personal data sheet I added the line, "Deputy Prosecutor and attorney under Charles O. Carroll" to partially respond to that.

Hughes: When that conversation ended, were there any kind of consoling words by him or you where you said, "Geeze, Chuck, I'm sorry you feel that way, and that's not what happened"?

Smith: No. I think I finally got tired of his diatribe and I hung up on him. I can't remember if I went to his funeral. At any rate, but Chuck was really a good person; he had a good heart, but he was a politician and he knew how to accomplish his purposes. He was a single-minded person.


Robert F. Kennedy, United States Attorney General, 1961-1964

Hughes: I guess that's the perfect segue to Robert Francis Kennedy. Tell us how it came to be that you got to work for the Attorney General of the United States. This was just after he had been named attorney general by the president, his brother?

Smith: Yes.

Hughes: It's 1961 – "The New Frontier."

Smith: Yes.

Hughes: At that time you were the assistant chief criminal deputy for the King County Prosecutor?

Smith: I'd left the Prosecutor's Office about a year earlier.

Hughes: That's right. You were in private practice.

Smith: With Bianchi, Smith and Tobin. Earlier, Bob Kennedy was the chief counsel for the McClellan Committee, whose chairman was John L. McClellan. It was formally called the Senate Select Committee on Improper Activities in the Labor or Management Field. And they were looking into improper connections between the Teamsters Union and management in violation of the Landrum-Griffin Act. In the process of conducting their committee hearings, they subpoenaed Dave Beck. Beck took the Fifth Amendment, 117 times. The lawyers in Seattle were up in arms over the fact that one of our citizens had taken the Fifth Amendment so many times in a congressional inquiry, and they felt something should be done about it. There was some agitation to get the King County Superior Court judges to call a grand jury. And before we get into the grand jury, Bob Kennedy traveled around into local areas that were interested in the same people that the McClellan Committee was interested in. King County was one of the few local jurisdictions that were purporting to do something about what was going on.

Hughes: This was 1957 to 1959, contemporaneous with you working for the Prosecutor's Office?

Smith: Right. And he came into Seattle several times to exchange information with our office in the hope that we would be able to do something about Dave Beck. So I got to know Bob Kennedy in that context when he was chief counsel for the Senate committee.

Hughes: He was barely in his thirties then. What was your impression of Robert F. Kennedy?

Smith: I thought he was an arrogant bastard. (laughs) I later changed my mind and I

became really devoted to him. But one of the concerning things about Bob Kennedy is that back in the old days recording devices were not as elaborate as they are now. And there was something called a "Minifone," a portable recording device that was about the size of a brick. Bob Kennedy met with Chuck Carroll and me, and he had a Minifone in his inside coat pocket. He didn't tell us that he was recording but I knew he was because I was sophisticated enough to know that if somebody comes in with a bulge in their coat pocket that it was a tape recorder. And from that experience, I decided that I didn't like him. Now, moving ahead, ultimately the King County Superior Court called a grand jury and the responsibility for doing something was thrown in Chuck Carroll's hands, and Carroll assigned me to do it. I did the foundation work for our case, and we ended up indicting Mr. Beck and then indicting his son for grand larceny, for sale of the Teamster Cadillacs. So we were the only local jurisdiction that successfully prosecuted anybody who was being investigated by the McClellan Committee. That drew Bob Kennedy's attention. … I knew who he was and he knew who I was. In the meantime, his brother beat Nixon for the presidency.

Hughes: Despite your best efforts with the Young Attorneys for Nixon.

Smith: Yeah. And in 1961 when Jack Kennedy appointed his upstart kid brother as Attorney General, I was furious. … At any rate, when Bob was appointed Attorney General, Ed Guthman, a Pulitzer Prize-winning writer for *The Seattle Times*, knew all about me. Ed was just adored by everybody who knew him, in the profession and outside the profession.

Hughes: That says a lot about a fellow who was an investigative reporter.

Smith: Oh yeah. Well, Bob brought Ed in as his Assistant for Public Information, high-level press secretary or whatever they called it. So between Ed Guthman and Bob Kennedy it was decided that Bob would call me and ask me to come to work for the Justice Department. I got a call from Ed Guthman saying, "Bob is going to call you. When will you be available?" And I said, "Oh maybe this day; maybe this day." So Bob Kennedy called my office, and I wasn't there. My secretary was just overwhelmed by the fact that the Attorney General of the United States was calling me. Then he called a second time and he got through to me, so that was when he asked if I could come to work for him. And I said, "I

can't come to work for you." And he said, "Why?" I said, "I'm a Republican. And I didn't vote for your brother. I voted for Nixon." He said, "I'm looking for lawyers, not politicians."

Hughes: That's a good one!

Smith: That was Bob Kennedy's comment to me. I told him I'd have to check with my wife, who happened to be in the hospital. She had given birth to our fourth child, our daughter. This is like on a Friday, and I talked with Elie and she said, "Whatever you decide to do is fine with me." So I took that as sort of approval because that's the way my wife is. She'd never tell me what to do. I can't remember if I called him or he called me, but we had on Monday another telephone conversation and I said, "When would you want me to come to work?" He said, "*Today*." I said, "My wife is in the hospital, and I have to get settled." But by the end of the week I was ready to go to Washington. Elie was out of the hospital. We decided to sell our house in Seattle, and I left all of that up to her.

Hughes: With three kids and a newborn.

Smith: Right, and they were all under five. (laughs)

Hughes: This is a good woman, judge!

Smith: Well, she had no choice.

Hughes: What kind of money did that job pay? "Assistant Attorney General," is that what it would have been called?

Smith: No, I was not that. I had this crazy title, "Special Assistant to the Attorney General," but I was under the Civil Service system. I was a Grade 15, whatever that was. And the director of personnel for the Justice Department told me, "Normally I'm the one who decides salary and grades, but for some reason other people think they can do it." And of course the Attorney General had decided what my grade would be and what my assignment would be. I found out after getting there that what Bob had in mind was getting even with James R. Hoffa. He was convinced that Mr. Hoffa was a crook and he was going to set out to prove it. So he brought in a hand-selected group of people. I was brought in from Seattle because of my prosecution of Dave Beck and also, because I had met Bob Kennedy. We were acquainted. The Justice Department had sections. In the Criminal Division, they had Organized Crime. Our special group was nominally attached to



Jimmy Hoffa, President, 1957-1964
International Brotherhood of Teamsters

Organized Crime, but the people in Organized Crime had nothing whatsoever to do with me. We had a special group. Internally we referred to it as "The Hoffa Squad," but externally we would never admit that we had such a special squad. The Criminal Division was headed by Herbert J. Miller, and the head of our special unit was Walter J. Sheridan, who was a close friend of the Kennedys. He had worked on the Kennedy campaign. Walter was not a lawyer. He had gone to law school but never finished. He was an exceptionally bright person and just very good to work for or work with. Walter was the head of our Hoffa Squad. I was assigned to run grand juries around the country. My principal grand jury assignments were Los Angeles and San Francisco. I wanted to be on the West Coast, but our investigation did not cover the Northwest. The Western Conference of Teamsters Pension Fund was not subject to our investigation because Prudential Insurance Company was running their pension fund. And we had teams in Savannah, Atlanta, Chicago, Detroit, Miami, New York and San Juan, Puerto Rico. My responsibility was to coordinate all of these while running my grand juries in Los Angeles and in San Francisco. Initially, we would go back to Washington once a week for a meeting with Bob Kennedy. Then he found out he didn't have the time to be Attorney General and meet with us every week, so our meetings became less frequent. But at the same time, he was on top of everything because of the reports that we would make. … Ultimately we were able to combine the grand jury activities into the Northern District of Illinois in Chicago. I personally drafted the indictment against Mr. Hoffa and the six businessmen who were indicted for federal mail fraud and wire fraud in violation of Illinois law.

Hughes: What were they allegedly doing – was it misappropriating or otherwise channeling the Teamsters' pension funds?

Smith: Yeah, sorry that I give you these long explanations.

Hughes: No, this is fascinating stuff.

Smith: The Central States, Southeast, Southwest Areas Pension Fund was run by a board of trustees. One half of them were labor and one half was management. The chairperson was James R. Hoffa, International President of the union.

Hughes: In each case?

Smith: He was the chairperson of the Central States pension fund. There was a scam against Teamster members in the sale of underwater lots in Florida – the "Sun Valley" land development . A real estate investor named Vaughn Connelly got caught up in it in some way or the other. Connelly went to the FBI and reported the underhanded methods being used by the Teamsters Union and Mr. Hoffa to defraud their own members by selling those underwater lots … It was down in the Everglades somewhere. At any rate, that was the beginning of an investigation into the pension fund.

Hughes: So was Robert F. Kennedy right – Jimmy Hoffa was in fact a crook?

Smith: Mr. Hoffa had less than high scruples.

Hughes: Did you have a lot of contact with Jimmy Hoffa during that time you were adversaries?

Smith: The only time I had contact with him was during the course of the trial where I would see him every day. But at any rate, we steered clear of him. I told you earlier that Jimmy came to my office one day in Chicago and it scared the hell out of me.

Hughes: Did he think he was going to talk some reason into you?

Smith: No, Mr. Hoffa was just a take-charge person. And I am convinced, for example, that the reason our trial jury convicted him was not so much because we put on such a good case, but because there was a document that was subject to question to be identified that Mr. Hoffa was not supposed to know about. He grabbed the document from his lawyers and was pointing out things in it. And I am convinced that after a 90-day trial that was the one thing that convicted him.… There was a team of persons who would work up phony applications for Teamster pension fund loans. … A man named Benjamin Dranow, D-r-a-n-o-w, was Mr. Hoffa's field person. And Dranow would get the (accountant) to phony up

balance sheets for applicants. And they clearly labeled them as pro forma, which means it's not worth the paper it's written on. But that didn't make any difference.

Hughes: Sort of a new twist on easy sub-prime loans.

Smith: Yeah. So the (accountant) would do a pro forma balance sheet for people who would apply for loans. And these loans would be presented to the pension fund board of trustees. Mr. Hoffa would push the loan through. Then when the money was paid, Dranow would get a 10 percent "finder's fee." And it's anybody's guess what happened to that money. In the meantime, during the course of our investigation, Dranow was in prison for income tax fraud of some kind or the other. I called witnesses. I think we had 30 different ones. I never kept written notes because of the Jencks Act that required you to furnish documents to defendants prior to trial. So in order to avoid a Jencks problem, I never made notes, so everything was in my head. But the one loan that I particularly remember – one out of Los Angeles, Beverly Hills – called First Berkley Corporation, was $1,966,000.

Hughes: That's a lot of money in 1962.

Smith: Right. The person who applied for it was a fellow who celebrated his hundredth birthday recently, and I went to his birthday party – Irving Link, L-i-n-k. Irving Link became my chief informant in my case. The way that happened was a combination of many things. Irving Link was in business with a man named John Factor, who during his Capone days was known as "Jake the Barber" Factor.

(Editor's Note: In *A Court that Shaped America: Chicago's Federal District Court from Abe Lincoln to Abbie Hoffman,* Richard Cahan, writes: "After serving six years in federal prison for mail fraud, (Factor) moved to Los Angeles, where he amassed a fortune as a real estate developer and a reputation as a do-gooder, contributing to many causes, including the redevelopment of the Watts neighborhood following race riots there. Pardoned in 1962 by President John F. Kennedy, Factor lived to about 90. The headline on his obituary in the *Los Angeles Times* read: 'John Factor, Noted Philanthropist, Dies after Long Illness.' ")

Hughes: Welcome to Chicago, 1930!

Smith: There was a transaction I was interested in through my Los Angeles grand jury. I would subpoena Mr. Link to the grand jury, and he'd always take the Fifth Amendment.

But in the course of his appearance before the grand jury, I asked him, "Do you know John 'Jake the Barber' Factor?" And he took the Fifth Amendment on that. I got a telephone call that day from John Factor, who said, "Mr. Smith, I understand you referred to me as 'Jake the Barber"' Factor. That's not my name, my name is John Factor and if you want anything from me you'll respect me and call me 'John Factor.' " I said, "Fine." And he said, "Whatever information you want from me you can get it from Irving Link. And if you subpoena me it will be a field day in the Federal Courthouse for me to appear."

Hughes: Every prosecutor's dream. Look what just landed in *your* lap.

Smith: "I will make an arrangement with you," Factor continued. And I said, "What is that?" He said, "Whatever information you need from me, Irving Link will give it to you. And if he doesn't give it to you, then you can subpoena me." So I said, "Fine."

Hughes: Why was he willing to sing, as they say? What was the motivation?

Smith: Well, John Factor was not in jeopardy. He had nothing whatever to do with the loans. It was a check for $154,000 that I needed to identify, and it came through his office. But Irving Link had something to do with this because he was one of the applicants for the $1,966,000 loan, with inflated assets, and a phony balance sheet. In the course of things, when we were looking for Dranow – we had Interpol looking for him, the FBI was looking for him – I got a call from Irving Link's lawyer, who asked, "Could you come back to Los Angeles? Irving wants to talk with you, and he won't talk with anybody but you." So I got on a plane, went to Los Angeles, and met with Mr. Link and his lawyer. Irving Link said he knew where Dranow was. This sounds almost like fiction, but you have to understand how I can remember all this: In fact, Irving Link's daughter was married to Benjamin Dranow's son. Irving Link was a member of the Friars Club in Los Angeles. There was an arrangement between Benjamin Dranow, who was on the lam, and Irving Link that letters would be addressed to Irving Link's Friars Club box, to be delivered to Dranow's girlfriend, whose name was Ruby.

Hughes: This is like Dashiell Hammett stuff!

Smith: At any rate, Irving reached the point that he had to negotiate his status as a possible defendant in the case by providing information to the government to locate

Benjamin Dranow. I had no authority to do these things, but I assumed a lot of authority. And I told Mr. Link and his lawyer, "I cannot promise you immunity. But nobody who has come forward in the truthful disclosure to the government has had to suffer from it. And the best that I could do for you is to tell you that if you make a truthful, full and complete disclosure from this point on, then I will not consider you as a defendant in our case." They agreed, and at that point Irving Link testified in my grand juries, and he became my principal witness in the case in Chicago. In the meantime, I subpoenaed John Factor to the trial in Chicago. I got a call from Mr. Factor. He says, "Hi. I have the subpoena. I'm in town, and if I show up in the Courthouse it will be a field day. And after Irving Link testifies if you still need me, I will honor the subpoena. But if Irving Link testifies and gives you the information that you need, would you release me from my subpoena?" So I said, "Fine." Irving Link testified like a canary. And I didn't need John Factor. So I called Mr. Factor, whom I had never met. I told him, "You're released from your subpoena. Go back home." After I left the Justice Department, I stayed in touch with Irving Link. Whenever I'd go to Los Angeles we'd have dinner.

Hughes: You say he just turned 100?

Smith: He had his 100th birthday last year, and his daughter invited me to his party. He's in serious Alzheimer's, but through it all he recognized me, which was very interesting. Both his daughter and I and many of his other friends were wondering whether he would know who I was. But he recognized me and I know that I got through the fog. But that is a key story about the pension fund case. We had a trial jury in Chicago. It took us three months to impanel a jury. Because of all the national ethnic enclaves in Chicago, we had people called for jury duty who were born in Chicago but couldn't speak a word of English. And so we had Germans, and Polish, and we had to excuse them because they were not familiar with the English language. … But we finally got our jury settled.

Hughes: This is 1962?

Smith: 1964. … I ran grand juries for three years. It may have been 1963.

Hughes: This was before President Kennedy was assassinated?

Smith: After. Because I was in Chicago the day he was assassinated. I was the only

person from Washington, D.C., in the office, and everybody came to me, you know, to commiserate with me.

Hughes: Had you ever met the president?

Smith: I never met him. I always figured that I'd have a chance, but he was killed before I had a chance to meet him.

Hughes: Did you speak with the Attorney General during that time, when he was burying his brother and grieving deeply?

Smith: I did.

Hughes: What was that like?

Smith: Bob was out of sorts. Well, what do you say to somebody whose brother has been assassinated? I just let him know that we were part of his family. He was away from work for two weeks during that period. When Bob Kennedy decided to run for the U.S. Senate in New York in 1964, I resigned from the Justice Department and went to work in New York on his campaign, on salary.

Hughes: I read a good interview that you did with Tom Ikeda for the Densho Project, where you said that even though you and Jimmy Hoffa were on opposite sides of the fence, quote, "I think he had a lot of respect for me as I had respect for him." What did you respect about Jimmy Hoffa?

Smith: I thought he was bright. He came up from nowhere from the streets of Detroit. And he had management skills. He was ruthless in a sense, but that's what they said about Bob Kennedy. And what is ruthless and what is not ruthless? I never felt that he (Hoffa) was inherently a *bad* person. I think that he knew how to control people. He knew how to get people to do things for him, and in the world that he lived in, ethics were not the same as my ethics.

Hughes: "Shades of gray."

Smith: Right. But that was an accurate quote in the Densho interview.

Hughes: Well the $64,000 dollar question is this: Do you think Jimmy Hoffa was the victim of a mob hit? What do you think happened to him after he disappeared in 1975 from the parking lot of a restaurant in suburban Detroit?

Smith: I've been quoted in one oral history interview *incorrectly* as saying I could guarantee that I know where he is. But that's not quite so. There was an interview in *Playboy* magazine with a person who is in the Witness Protection Program, so his name is not correctly known. He claims that either he was involved in or he knew the people who were involved in kidnapping Jimmy Hoffa from Michigan, dismembering his body and burying it in the Meadowlands sports complex in New Jersey. He knew names and places that I could connect with. The special agent in charge of the Seattle Bureau at the time was formerly a special agent in charge of the Detroit Bureau, who had followed Mr. Hoffa in a more intense manner than I. But that was my work for four years, so I knew a lot. We put our heads together and decided that this person was so accurate in names, dates and places, that we could believe what he said when he said, "Mr. Hoffa was buried in the concrete in the Meadowlands Race Track. Part of this story revolves around Mr. Hoffa when he was in the Lewisburg Penitentiary serving time on a jury-tampering case, which was not my case.

Hughes: Hence your remark earlier that the two guys you made your reputation on never served a day in jail, at least not thanks to Charles Z. Smith.

Smith: (laughs) But Anthony "Tony Pro" Provenzano, who was head of the Teamsters Union in New Jersey, was also serving time at Lewisburg federal prison, according to the *Playboy* interview. And during an outdoor recreational period, he and Mr. Hoffa got into an argument over something and Mr. Hoffa slapped him. And that was the beginning of the end for Mr. Hoffa because Provenzano had a contract out for him. This is according to the person who did the interview for *Playboy*. The time, and dates, and the names that were used were so accurate in his interview that two of us, at least, concluded that he knew what he was talking about.

(Editor's Note: A book, Conspiracy Theories in American History by Peter Knight, says a prison inmate, Donald Frankos, aka "Tony the Greek," told *Playboy* magazine in the November 1989 issue that Hoffa's remains were mixed in the concrete used to build Giants Stadium at the Meadowlands.)

Hughes: You were an aggressive young prosecutor with a wife, four young children. Did

you have any threats made against you?

Smith: Never, although I assigned myself bodyguards. It was almost a joke. I had these lawyers working with me – career Justice Department lawyers who wanted to gain some importance, and one of them claimed he had been threatened. Here I was in charge of the operation. Well, if an underling in my office is threatened, I concluded that the head of the office could be threatened. So I had the U.S. Marshal's Office assign 24-hour bodyguards for me for about a year.

Hughes: You and your family were living in Chicago during this time?

Smith: No, we were living in Northern Virginia. I was commuting to Chicago. There were some times when I would make a daily trip to Chicago. I had to leave Dulles Airport at 9 o'clock in the morning and get to Chicago with the change of time, put in a full day, and get on the plane and return home to Virginia. But I didn't do that regularly. I would spend one week, two weeks, three weeks away from home. My wife was living in northern Virginia at the time. But I had my bodyguards who traveled with me, and who lived in the hotel with me; United States marshals with guns to protect me against any threat of harm, though realistically I never had a threat. Nobody *ever* made me feel insecure. But I decided to do that. It wasn't exactly a joke, but I had a point to make.

Hughes: So early on when you saw Robert F. Kennedy as a young prosecutor you thought that he was an arrogant so-and-so. Then you came to work for him; became fond of him. Did he treat you well? Was he good with his staff?

Smith: Oh, the answer is "absolutely yes." He wasn't the brash person I had believed him to be. He was considerate. There were little personal things. My wife had surgery shortly after she came to Washington, and she got a telephone call from somebody who just identified himself as Bob.

Hughes: Just Bob?

Smith: Just Bob. And as it turned out it was Bob Kennedy wanting to find out if she was all right, and if they were treating her well, and that she had the best medical treatment. Then that same day a bouquet of flowers came, signed "Bob." Now that is an incidental, very personal thing. But it helped my wife to understand that this was a person who

was concerned about family. And she had no problem with my working as hard as I was working for him. And you could multiply that by many things. Periodically Bob and Ethel Kennedy would have the staff at their house for dinner or something like that. And Ethel knew all about the children, their names, what their latest illness was, you know. So it makes nonentities feel like somebodies, and it wasn't something that we were looking for.

Hughes: But it was the real deal, don't you think? He really cared?

Smith: Oh yeah, I would not think otherwise because it was so many things like that. But what convinced me of Bob Kennedy's integrity is this: In the United States Attorney's Office in Los Angeles they had an organized crime section. I was not part of it, because I'm out of Washington. I just maintained my office there. So whenever I'd go somewhere I'd have an office in the United States Attorney's Office. There was something going on during that time where they wanted to subpoena Frank Sinatra. The head of that section came to me and said, "I'd like to subpoena Frank Sinatra, but he's a friend of the Kennedy family." I said, "Sit down." I got on the telephone; called Bob Kennedy, and presented this notion to him. He said, "If the bastard has done anything, indict him."

Hughes: Speaks volumes, doesn't it?

Smith: That went over *big* with the staff person, head of the organized crime section in Los Angeles. From that point on Bob Kennedy could do nothing wrong as far as they were concerned. And I had the same experience with him with almost the identical response. One of the persons we indicted in Chicago was a fellow named Cal Kovens, K-o-v-e-n-s, who was a builder. He had built the Miami General Hospital and gotten a loan from the Teamsters Pension Fund. The loan was based upon five floors of the hospital, but the hospital was only three floors, so we were able to ask, "What happened to the fourth and fifth floors"? But the Kovens family owned department stores, and Cal Kovens had a brother who was the manager of the department stores operating out of Baltimore. Irving Kovens used to follow my grand juries. And one day he came to me and said, "My family contributed $150,000 to John Kennedy's campaign."

Hughes: Illinois was a bit of a crucial state there in November of 1960, to put it mildly.

Smith: So I got on the telephone, called Bob Kennedy and said, "Irving Kovens made this

comment to me. What should I do?" Again he said, "If the bastard has done anything, indict him." And so we ended up indicting Cal Kovens. This is part of my conviction that Bob Kennedy had integrity. Even though he had his purpose to quote, "Get Mr. Hoffa," at the same time he would not let anything like prior relationships and contributions to a campaign and all of that interfere. So I came to recognize him as a person of great integrity. Witness the fact that I left the Justice Department to work on his campaign for the U.S. Senate.

Hughes: What did you do in that New York senatorial campaign in 1964 when Robert F. Kennedy was accused of being a carpetbagger from Massachusetts, as I recall.

Smith: Right.

Hughes: Who was the opponent? Was it Mayor Lindsay?

Smith: No, there was a senator. Who was it?

Hughes: Keating?

Smith: Yes. It was Senator Kenneth Keating, the Republican incumbent. I was assigned to the press corps. And my responsibility was to make notes on Bob's speeches.

Hughes: Did you meet some of those fascinating characters in the New York press corps – Jimmy Breslin and the like?

Smith: At some point or another I met them all. One of my most memorable events was the artist who did the "Willie and Joe" cartoons for the *Stars and Stripes*.

Hughes: Was that Bill Mauldin?

Smith: It was Bill Mauldin. Bill was a private pilot, and he would follow us around. He was a Bob Kennedy supporter. And I got stranded in a town. I didn't even know where I was and missed the campaign plane. So Bill said, "I'll take you." And so here I was in a plane piloted by Bill Mauldin.

Hughes: An amazing character. He was the G.I.'s cartoonist in World War II.

Smith: Right. And he had done a cartoon when Kennedy was killed showing the Lincoln Memorial weeping. And I said to Bill, "I really admired that." A couple of days later I got an autographed copy of it. I have it on my wall.

Hughes: What a treasure.

Smith: But you know you take things for granted. I'm not one who is impressed with celebrity – the movie actors and other people who were on the campaign. That was standard for Bob Kennedy because he had this following out of Hollywood going back to his father (Joseph P. Kennedy), who had that notorious history in Hollywood.

Hughes: Between bootleg whiskey and movie stars Joe Kennedy cut quite a swath.

Smith: Bob was very, very fond of children. So we would be in a motorcade dashing along the highways in New York, and a nun would be there with a group of children. He'd stop the cavalcade and get out and talk with them. And they didn't have to be Catholic for him to do that. He just touched base with everybody. Even if I had not grown to admire him before then, that helped me to realize that I was terribly wrong in my earlier evaluation of him – that he really was a sensitive person. He was considerate.

Hughes: Did you meet Rose Kennedy or any of the other Kennedys?

Smith: Never met any of them – well, I think I met Ted once. In what I call the Kennedy hanger-ons, you had your own Kennedy to hang onto. I was a Bob Kennedy hanger-on, and never a Ted Kennedy, never a Jack Kennedy hanger-on.

Hughes: That's interesting. You read and hear so much about the whole aura of the Kennedy family and conclude that everyone was intertwined. Like it was PT 109 pals one day and Harvard touch football the next. Did you ever play touch football with the Kennedys?

Smith: I played touch football, and I am totally non-athletic!

Hughes: It was obligatory exercise with the Kennedys, wasn't it?

Smith: Well, you're in an element where the popular thing to do is to play touch football on Saturday mornings, so when I was in Washington, D.C., I would play touch football. Walter Sheridan, some of the others, and Edward Bennett Williams played too.

Hughes: The famous Washington trial lawyer.

Smith: He was one of Mr. Hoffa's lawyers. He represented him in the case that was the precipitation of Bob Kennedy's anger.

Hughes: Tell me about that.

Smith: It was a bribery case, and Williams represented Mr. Hoffa. They arranged for Joe

Louis, the former heavyweight champion of the world, who was from Detroit, to come in and embrace Mr. Hoffa in the presence of the jury, which was predominately black. And another dimension to it is that Joe Louis was married to a lawyer, out of Los Angeles, an African-American woman. And Ed Williams needed Martha Jefferson Louis like a hole in the head. Martha Jefferson worked with him on the case – United States vs. Hoffa in the District of Columbia. So you had Martha Jefferson and her loving husband, Joe, who came in and embraced "my friend Jimmy." And the Washington *Afro-American Newspaper* had a full page photograph of Joe Louis embracing Mr. Hoffa. Strangely enough, all the jurors had a courtesy copy of that newspaper on their doorsteps. I was never in court with Ed Williams although I knew him, and I liked him. He was one of the best lawyers I've ever met.

Hughes: I wonder if Joe Louis had really strong convictions, or was just sort of for hire there as a celebrity endorser.

Smith: I think a combination. Joe was not the best educated person in the world. And I *think* he could be manipulated, whether for political reasons or anything else. … But I think that his political affiliation, as we both know, it's the person who gets to you first. Somebody comes to me and says, "Would you endorse me?" Well, maybe I will, but what do you have to offer the public? Tell me that and maybe I'll endorse you. Then tomorrow somebody comes and says, "I'd like for you to endorse me." And I would have preferred that other person but I've already committed myself.

Hughes: So it's late 1964. You've helped elect Robert F. Kennedy to the United States Senate from New York, and you come home to Washington State. What happens then?

Smith: That's when I started my judicial career. I was appointed to the Seattle Municipal Court in 1965.

Hughes: How did that come to be? Is that something that you'd thought about doing? The judiciary had appealed to you?

Smith: In the very nature of things, opportunities come that you never thought about before, and you have a chance to think about them. Before this occurred, I was recruited by the Peace Corps. Sargent Shriver (a Kennedy in-law) was director of the Peace Corps.

And even though Shriver supposedly didn't know my connection with Bob Kennedy, at the same time it was an institutional process. I wanted to go to Colombia because at that time Colombia was a great place with good schools. My children would have gone to the national schools. Shriver wanted me to go to Brazil. I didn't want to learn Portuguese; I didn't want my children to learn Portuguese because I felt that it would be a useless language. And Frank Mankiewicz who headed the Latin American section of the Peace Corps, wanted me to go to Panama. So we had these three interesting options. I was to be the quote, "Director of the Peace Corps" in whichever country I went to. So we had our State Department physicals. We went through a language program.

Hughes: Spanish, I presume?

Smith: Spanish, both Elie and I. And we had arrangements for our furniture to be picked up and shipped. But I had not yet signed my contract because the decision of which country I would go to was not determined. I was in New York during the Senate campaign and I got a call from Seattle. I can't remember who it was who called me, but they asked if I would accept an appointment to the Seattle Municipal Court. And I was reminded that I had been away from home for four years, and that if I went with the Peace Corps my contract would have been four years. I would have been away from home for eight years and I when I came back nobody would know who I was. And since my *only* profession was the legal profession it would be to my advantage to return home to Seattle.

Hughes: And your mother and some siblings were here in Seattle?

Smith: Right. But my decision had nothing to do with my family. It had to do with my Bar Association membership. I'm a member of the Washington State Bar, and I'd never been a member of any other bar, so I would need to depend upon my Washington State Bar connections in order to establish myself in my profession, having been away for four years.

Hughes: That would be eight, including the Peace Corps – a decade almost.

Smith: So I called Elie and said, "Guess what? We're not going with the Peace Corps."

Hughes: And what did Elie say?

Smith: She hasn't forgiven me to this day, and that has been 40 years.

Hughes: I really want to meet this woman, judge!

Smith: She was very disappointed because at that time I was not sufficiently wise to consult with my wife on important decisions. So I unilaterally made the decision that, one, I would not sign my contract with the Peace Corps and, two, instead of going to South America, wherever that was, we would go back to Seattle. So that was the way I came back to Seattle. If you ever meet Elie, if you *mention* the Peace Corps and our aborted trip to a South American country I don't know what she would say. I would try to intervene to keep her from hearing it. And of course Elie had in the back of her mind when she came to Seattle as a recent university graduate that ultimately she would go to South America. So when she met me, we got married and that interrupted her quest to go somewhere in South America.

Hughes: She's an ethnic Puerto Rican who was raised in Hawaii. Had she ever been to Puerto Rico?

Smith: The first time Elie went to Puerto Rico was when I took her in 1977. … But again, she had these plans and she was disappointed. She had graduated from the University of Hawaii, ended up teaching in Seattle, which was a way station on her way to South America. Then I interrupted that. So after all these years, even now she still has some residue of resentment against me for aborting our trip to South America.

Hughes: So it was Seattle Mayor Dorm Braman who appointed you to the Municipal Court bench in 1965?

Smith: Right.

Hughes: Did you know Mayor Braman? He was quite an interesting guy, wasn't he?

Smith: He was a Republican, and when I was an active Republican I knew him then. When he appointed me to the Municipal Court, I necessarily was thrown in contact with him because at public meetings Dorm Braman was proud of the fact that he had appointed me to the Municipal Court, so we would get introduced.

Hughes: Given what you'd done over that previous decade, from Dave Beck to Jimmy Hoffa to Robert Kennedy, you were an up-and-comer. What did he think he was getting when he got Charlie Smith to be on the Municipal Court? Was he partly motivated by the fact that you were an ethnic minority?

Smith: No, it was *despite* the fact.

Hughes: Really?

Smith: What Dorm wanted was to make an appointment that was acceptable to the public. **Hughes:** You were kind of a twofer in that you had been a Republican, then worked for a well-known Democrat. Did you gain some points there?

Smith: Well, of course once I got in the judiciary I was prohibited from identifying with a party. … When I was with the Justice Department I was under the Hatch Act, so I could not identify with a party. So that's why I had to resign from the Justice Department to go work on Bob Kennedy's campaign.

Hughes: I find it interesting in Charles Sheldon's excellent book on the biographical history of the Washington Supreme Court through 1991, that in the thumbnail bios that precede each biography, it will have the classic, "Republican, Baptist, Rotarian" notations – classic stuff from more like the 1920s and 1930s than the contemporary judicial world. But you're not a Municipal Court judge for long. In 1966, you are named to the King County Superior Court bench.

Smith: Right.

Hughes: How did that come about?

Smith: I got a call from Jim Dolliver, the governor's chief of staff, who said Gov. Dan Evans would like to meet with me in his office in the Seattle Center. He had an office there.

Hughes: Our new governor.

Smith: And I met Dan for the first time, and he said, "I'd like to appoint you to the Superior Court." And I said, "Fine." (laughing)

Hughes: You've actually been out of state for the years that preceded the rise to prominence of this young civil engineer who was a progressive Republican.

Smith: Right. … I haven't been identified with the (Republican) Party since 1960, but if I were to identify with a party, I'd be a Sam Reed Republican, a Dan Evans Republican. But I would not be a George Bush Republican.

Hughes: So it was an impressive first meeting with Dan Evans then?

Smith: Right.

Hughes: Had you known Jim Dolliver before – a future colleague on the Supreme Court?

Smith: I'd met him, maybe in connection with lawyers' meetings or something like that. But in those days decisions on appointments were made differently than they are now.

Hughes: How is that, judge?

Smith: Well, lawyers now apply to the governor for appointment to a court. And not only do they apply, they conduct elaborate campaigns.



Bill signing with Gov. Dan Evans; Judge Smith at center behind him
Charles Z. Smith Collection

It shatters my sense of ethics that someone could *apply* to be appointed for something, but that's the style now. That's in addition to the fact that the governor can go out and identify and appoint whomever the governor wants to. At the same time there's this process that is set up; the Bar Associations have standing committees that evaluate judicial candidates. So if one is interested in being evaluated for appointment to the Superior Court, you apply to the Bar Committee for an evaluation. And they keep them on file for five years. To me, that's a very strange process. Perhaps it is more democratic than the good-old-boys days where somebody in a back room decided that somebody would be appointed. And I'm not criticizing the way that I have been appointed to the courts, except that I came through a process by which I was recruited rather than something I applied for.

Hughes: A lot less formal Bar Association process.

Smith: Right.

Hughes: Did you enjoy being on the Superior Court?

Smith: I enjoyed it. The only thing is that I experienced burnout. I was assigned to the Juvenile Court and I finally decided that I had more to do with my life than to worry about


Superior Court Judge Charles Z. Smith, 1969
Washington State Supreme Court Collection

these families and children. I knew what the solution was, but the solution was not available because of lack of funding, or lack of understanding on the parts of the people in power. So I had to get away.

Hughes: I was impressed by some of the steps you took in trying to intervene and make a difference in young peoples' lives. And your frustration to the media over not being able to have the infrastructure of money to really do that.

Smith: That's an accurate observation.

Hughes: Were you seeing a lot of classic delinquency and drugs and alcohol, those kinds of fractures in families?

Smith: The way we operated then, in King County Juvenile Court, in the Superior Court certain ones of us were assigned to what we called the Juvenile Court Committee. And not everyone who was interested was permitted to serve on the Juvenile Court Committee because of the control manifested by the system. For example, Judge Solie Ringold, wanted to serve on the Juvenile Court Committee but our colleagues decided he was too liberal.

Hughes: Was that a fair indictment?

Smith: Well, no, Sollie was at that time the only Jewish person we had on the court.

Hughes: Do you think there was an undercurrent of anti-Semitism?

Smith: Not pure anti-Semitism as much as it is a stereotypical assumption that he is a Jew, therefore he would be of a more liberal disposition. They put me on the court because I'm (seen as) this hard-hitting prosecutor. So I served on the Juvenile Court Committee. But we would rotate, I would serve six months and then for 18 months I would not be on the juvenile court. But I was serving in the Juvenile Court when the Gault Decision was rendered by the U.S. Supreme Court in 1967.

Hughes: Tell me about that, judge.

Smith: In re Gault was the decision that concluded that juveniles had constitutional rights, and that the systems and protections that were available to adults would have to

be available to children. When I was interviewed about that decision I said I thought it was the greatest thing that ever happened. And one of my senior colleagues said it was a dark day in the court system. And so we had this dichotomy between Charlie Smith who thinks the Gault Decision was great and this other judge who thought it was the worst thing that ever happened. But ultimately the Gault Decision has become the operating format for juvenile courts throughout the United States. Prior to my going on the Superior Court, we had a Judge, William Long, who was the juvenile court judge for 27 years. Judge Long was an autocrat, arbitrary. On the one hand, in the community he was known as this benevolent judge who loved children, but then on the juvenile court he was a tyrant. In the Gault Case, out of Arizona, Gerald Gault, a 15-year-old, was charged with making an obscene telephone call to a neighbor woman. Without taking testimony, the judge said to him, "I know you did it." And so he sentenced him to the Arizona Industrial School for six years. And that case was appealed by a public defender and ultimately heard by the Supreme Court. But at any rate, Judge Long was the same way. If a young person in the Juvenile Court came before him, charged with some offense, whatever it happened to be, he would say, "I don't care what you say. I know you did it." So when Judge Long retired or died – I can't remember which – the King County Superior Court decided to run the Juvenile Court by committee. I was on the Juvenile Court Committee. So the cases that I had were of all varieties – you name it. At that time we had not yet gotten into drugs. I was involved in early stages of recognizing drug problems. I think I was chairperson of the King County Drug Commission or something like that.

Hughes: We're talking 1966, '67 now?

Smith: Right. And up to 1973. I was last on the Superior Court in '73. So the cases that we would get would be taking motor vehicles without permission of the owner, automobile theft, petty larceny. In those days we even charged truancy from school.

Hughes: There's no more truant officers per se any more, are there?

Smith: No. (smiles at the memory) But I had all kinds of cases, including sexual misconduct. I had parents who were engaged in improper sexual activities with their children coming before me in the Juvenile Court. I remember one case in particular

where there was a 14-year-old who was in custody and her father was accused of having intercourse with her. And she would write him letters that were intercepted by the staff, saying, "I'm sorry that I got you into trouble, but I didn't like the way you did it the last time." That kind of thing. …

Hughes: We're seeing so much more of this today. I wonder if it's always been going on like this.

Smith: It's coming to light more because the victims are now coming forward. And what shocked me more than anything in that particular case was the fact that the mother insisted she had no idea this was going on.

Hughes: That's the thing we hear time and again, isn't it?

Smith: Right. And when I had authority to do it, I would remove the children from the home, and require the mother and father to be in counseling, or sometimes to refer it to the Sherriff's Department for a criminal case against the father. There were thousands of cases of different kinds, but these were the kinds of cases that would weigh on my mind. Prostitution was a big thing among juveniles in those days. I had one young woman who was 14 or 15 years old, who was a prostitute. And you keep her in the detention center and she's a moral problem with the other children; release her she's back out on the streets. These are the kinds of things that weighed on my mind. Finally, I decided, "What am I doing here?" And I announced that I was not going to run for re-election.

Hughes: Did you hope in your heart of hearts that a judge might have done something that would have made a difference?

Smith: Well, to provide programs, residence facilities, counseling programs, a lot of which have happened in recent years. Back in those days I may not have had the answers but I had an idea. I felt that there was room for more social work intervention with children and families in the Juvenile Court, rather than thinking in terms purely and simply of trial, conviction and punishment. Even in my early days (on the bench), I felt that there had to be another solution to it, and the solution was not punishment as we normally saw it. Of course the attitude of the public is very interesting. I recall a woman in the community who was married to an older wealthy man, and for a birthday present for her he gave

money to build a swimming pool for the King County Juvenile Court. It was a stainless steel pool, very expensive. But the people in charge, my colleagues on the Superior Court, did not want the public to know that we had an expensive swimming pool for those "bad children" in the Juvenile Court. So they painted the building a very ugly purple on the street side. And that was the attitude about children. We called them "juvenile delinquents." But somehow or the other, the harsh approach to dealing with children and families was anathema to me and I felt that the system owed our public something better than that.

Hughes: Around that time, or earlier, did you develop the strong feeling that alcoholism is a disease that needs to be treated, rather than just a willful condition or "weakness"?

Smith: When I was in the Seattle Municipal Court I handled 68 percent of all arrests for the Seattle Police Department. And fully 50 percent of those were for public intoxication. In those days it was a crime to be drunk in a public place. So we had this revolving door of people coming in and out, in and out, in and out, in and out.

Hughes: You could make one sweep through Pioneer Square and you had a full docket.

Smith: But before I returned to Seattle I had a friend whose sister-in-law, a Dr. Ruth Fox, was the medical director of the National Council on Alcoholism. And in talking with Ruth Fox I developed an attitude about the treatment of alcoholics. At that time the preferred treatment was Antabuse. And so when I came back to Seattle and was on the Municipal Court and found myself dealing with alcoholics on a daily basis I got in touch with Ruth Fox. She provided me with information from the national group, and was sort of a counselor to me to come up with a new approach to things. The chief of police of the Seattle Police Department at that time, Frank Ramon, had what they called the Alcohol Farm, operated by the Seattle Police Department.

Hughes: The Alcohol Farm?

Smith: Right. And so they would take people who were convicted of public intoxication who were put in jail and transfer them from the jail to the Alcohol Farm. I don't know what they were doing when they got them there, but I put together a group of people, including the Chief of Police, some physicians and some other professionals to come up with a

different approach. Shadel Hospital, which is now Schick Shadel Hospital, was available as a treatment resource. They were doing some experiments with a new drug. I forget the name of it, but it was used with aversion therapy. And I had an arrangement with Shadel Hospital, where upon proper application I would release from the Seattle City Jail persons convicted of public intoxication to be in residence at Shadel Hospital where they were fed well, and treated well, and subjected to this treatment. And as I look back at it now, I think it would have been unconstitutional for me to do that. But it was an idea that seemed to work. And so the people who were in jail for public intoxication were vying for the chance to go to Shadel Hospital for treatment.

Hughes: Was some of that just a sham, or were many generally interested?

Smith: It's hard to know when you're dealing with that level of behavior in that segment of the population. But if I were in their shoes, and heard about a place where you live well and have good food, it would be different than being in a jail cell.

Hughes: Who paid the bill for some of those charity cases?

Smith: It was done by Shadel Hospital. Charles Shadel was a very wealthy man. He started the hospital.

Hughes: I had never heard that side of it. I thought it was just more of a private clinic.

Smith: It was subsequently bought by the Schick razor company. Back in those days they were conducting some very elaborate experiments.

Hughes: They were trailblazers in the treatment of alcoholism?

Smith: Right. And so they had a medical director who would meet with me regularly. It was the beginning of a new awareness of the phenomenon of alcoholism as an illness, a treatable illness. It was part of a groundswell of a movement and sometimes you'd get caught up in it. I became an "expert," and I used to do team teaching on alcoholism at the Medical School at the University of Washington, because the Medical School didn't have an established curriculum on alcoholism,

Hughes: You were a *real-world* clinician as a Municipal Court judge.

Smith: So at any rate, I was involved with many different organizations.

Hughes: So there you are: You're a young Superior Court Judge, with strong humanistic

feelings, and you've got four young kids growing up at home. Right?

Smith: Right.

Hughes: And you're seeing the frustration over all of these cases, sad cases, and naturally you bring that work home. This is also a tumultuous time for America. Your friend and former boss, Robert F. Kennedy, is assassinated. Martin Luther King Jr., whom you knew as a young man, is murdered. There's rioting in the streets of Chicago. Watts is aflame. How did you process all that as a Cuban-African-American man? I just threw a lot at you in one fell swoop. Sorry.

Smith: Psychologically I think it is a form of detachment – not denial but detachment. I was very much aware of what was happening in Seattle. For example, there was a store near Garfield High School, which was a predominately black school. And the kids from Garfield who were in touch with me in various ways, privately or with organizations, said the problem with drugs at Garfield was at that store because that's where the drugs were being sold.

Hughes: The owners had nothing to do with it? They were just in a prime spot that it was occurring?

Smith: (laughing) That isn't quite right. … They operated a drug distribution business out of the delicatessen. I became aware of it and reported it to the Chief of Police. And I was in a meeting – in fact I think I was meeting with the officers of the Garfield Student Association – and they said "Look out the window! The police are closing up Blumas Delicatessen!" And we thought we had accomplished something. And the next day it was open again because whatever happened that day was over-ruled the following day. But these were things that were happening, and I was aware of them. I knew a lot of the people who were involved in events and who were affected, and I had my own ideas about what was behind different things. The development of the Black Panthers, for example, and the harassment the Black Panthers suffered from the Seattle Police Department and the FBI.

Hughes: You really had a close-up view in terms of civil rights issues in that era.

Smith: Even though the least of my involvement was civil rights.

Hughes: That's such an irony. But you could hardly escape it …

Smith: I couldn't escape it. And we decided to build a house in the Central Area. We had lived in the suburbs. And we made a deliberate determination to build in what was commonly called the Central Area. We are on the "Gold Coast," but nevertheless Central Area. So that meant I publicly stated that my children would go to public schools in the Central Area. And one of my sons, who is now 51 years old, was in junior high school when he said to me, "It is unfair of parents to manifest their principles through their children."

Hughes: A chip off the old block! Which son is that?

Smith: Michael. He's an MIT engineer. Michael and Carlos applied for admission to Lakeside School and got admitted. And Lakeside gave them a come-on scholarship to get them in, but once they were in they decided that I had to pay full tuition for them.

Hughes: That's bait and switch!

Smith: Two of my children started out in the public schools and ended up in private schools, and two of my children started in private schools and ended up in public schools. So I have shared the children responsibility with various school systems. My involvement in the civil rights movement took the form of participating in the movements to establish community councils for the Seattle Public Schools. We were appropriately agitating for changes in the Seattle Public School System to bring in persons of color as teachers and as principals.

Hughes: Am I correct in saying that there was more or less de facto segregation in schools in Seattle? There was no effort at that time to achieve any kind of racial balance in Seattle schools?

Smith: That's right. Garfield High School was the dumping ground. It was 95 percent black. And they had cast-off books. Faculty were assigned there as punishment. The community had to do something about it, so through the Urban League we organized the community school councils.

Hughes: Had the Urban League been in existence for quite some time prior to that, as a Seattle movement?

Smith: Oh the Urban League is one of the long-established organizations. I was president

of the Urban League in 1956 and '57.

Hughes: Was it a civil rights movement?

Smith: No. Well, the Urban League was interested in paving the way for improvement in relations between employers and employees. The NAACP, the National Association for the Advancement of Colored People, was the civil rights group. In fact I had the experience of being on the board of the Urban League and on the board of the NAACP. The woman who was the head of the NAACP told me I could not be on both, that I would have to resign from the NAACP or resign from the Urban League.

Hughes: Did the Urban League willingly, openly include ethnic minorities?

Smith: Oh yes. The Urban League was a cross section. For example, when I was president of the Urban League, my vice-president was Father Albert Lemieux of Seattle University. So the Urban League in those days was more of an integrated, diversified activity. Probably more whites than there were blacks involved with the Urban League because we needed people of substance, financial substance, and people with power in the community to be involved in the activity.

Hughes: But these were colorblind, progressive kinds of white people.

Smith: Sort of, right. And there have been magnificent white persons who have been active in the NAACP, but the NAACP is looked upon as a predominately black organization. The Urban League is not considered a predominantly black organization.

Hughes: In researching your life, I read a quote – I think it was when you retired from the Supreme Court in 2002 – that when you were moving along in your career you were perceived as being a "safe" person of color, as opposed to one of those rabble rousers.

Smith: Right, I'm not a radical.

Hughes: You said you never wore a dashiki and never marched. Is this accurate?

Smith: That's accurate. More than accurate. I suppose that if somebody wanted to take advantage of the non-white aspect of my life, it was *safer* to appoint me than somebody else.

Hughes: Actually, they were getting kind of a stealthy subversive in Charles Smith, weren't they?

Smith: (Smiling) Well, you're entitled to that observation but I won't comment further.

Hughes: OK! … When you were living in the suburbs, was there an instance where a cross was burned on your lawn? Someone told me that happened.

Smith: No, never. … A lot of urban rumors are around that aren't true. I never experienced a cross burning. And I never experienced overt hostility from neighbors. We were one of the first persons of color to move out of the Central Area. We had an apartment in the Central Area, but I bought a house in what is now Shoreline. And the woman next door was very upset over the fact that these people of color had moved in next door to her. … And my wife would wear muu-muus, which is common—

Hughes: She's Hawaiian, after all.

Smith: And this (neighbor) woman had spouted off that these Negros were trying to pretend they were somebody else by wearing costumes. Elie never heard about it. I heard about it. I thought it was funny. But later on the woman got to be a very good friend. I don't know exactly how it happened. We had a dog, a big German Shepherd, and the dog was the friendly person in the neighborhood. The woman had children, and we had very small children. For some reason or the other they got to be good friends, you know, next-door neighbors.

Hughes: You really get to know someone and it takes away all the stigma.

Smith: But again, the experiences that I had (with racism at that time) were more distance experiences. One (of them) relates to my wife's naiveté. She had absolutely no concept about racial discrimination as we practice it on the mainland. She wanted to look at some houses in a new development in the Bellevue area. And I said, "Oh, I don't think you want to look at those houses. And she said, "Well, why not?" I said, "Okay, I'll make an appointment." Rather than walking in, I made an appointment. And we went there and asked for the man who I had an appointment with. And the young woman behind the desk said, "We don't have anybody by that name." And a man came in, and she walked up and said, "This man is crazy, he's asking for Mr. so-and-so. We don't have anybody by that name, *do we*?" And that was the kind of experience that I had.

Hughes: Was that an eye-opener for Elie too?

Smith: Upon reflection, I think at the time it never occurred to her what was happening. And again, with respect to her naiveté, when Elie first came from the islands, before I met her, she had come from the airport to downtown, and the bus let you off at the Olympic Hotel. She wanted to check in to the Olympic Hotel and the doorman wouldn't let her in because she had brown skin. Somebody sent her across the street to the YWCA. And you know this had to have been 1954, and this naïve young woman who had only been off the islands once, been to New York for two weeks, but other than that *this* was her mainland experience. And it wasn't until sometime later as we got to talking about it, I told her what was going on because at that time I could not have gone into the restaurant in the Olympic Hotel in 1954.

Hughes: Really?

Smith: Oh yeah. The existence in our culture a few years ago—and I think 50 years is a few years at my age.

Hughes: Sure. I saw this in the South in the '60s when I was in the service. But I had no idea, frankly, that it would have existed in Seattle, Washington at that time.

Smith: Northern, Northwest, Western attitudes are no different than Southern attitudes. The *only* difference (is that) in the Deep South you knew where there lines were, and in Seattle, the Pacific Northwest you didn't know what the lines were until you ran into it. So here we didn't have segregated water fountains, but everything else was about the same. So the idea that any one person thinks that they are better than somebody else because of national origin, and because of color, or because of race, or because of religion is an affront to the great democracy that we *now* claim to believe in. And I think we are reaching a point where things are changing. This is *not* just Barack Obama. Barack Obama is merely a symbol of the change that is coming about.

One little joke, on the Maury Povich show there was a young woman who was like twelve or thirteen, who was totally out of control. And she took the position that Obama had been elected president and she could do anything she wanted to.

Hughes: A new license.

Smith: But anyway, life is still good, John. The big thing about the transition from rank

discrimination because of race to where we are today is a person can experience it and come through it without becoming bitter. And one should not harp on it. I've had experiences that would curl your hair.

Hughes: I bet you have.

Smith: But they're not important to me.

Hughes: I've been reading an excellent book, "Lies my Teacher Told Me," which has a chapter about how high school history books ignore the rampant racism in the twenties and thirties, including widespread lynchings. It reminded me how relatively lucky you were as a person of color to growing up in Florida, as opposed to Mississippi. There were lynchings in Duluth. Tulsa in 1921 saw this incredible race riot where they were dropping dynamite from airplanes on a black enclave. I just had no real grasp of how vicious and pervasive it was during that era, with Oregon as a stronghold of the Ku Klux Klan.

Smith: There were lynchings in Seattle.

Hughes: In Seattle?

Smith: The Chinese workers. … You know, the idea of lynching is one thing from a historical standpoint. We had in Congress some, what I call cotton-mouth Senators from places like Mississippi with somebody named (Theodore Gilmore) Bilbo. And Bilbo was the leader of the group in the Senate that prevented the enactment of anti-lynching laws. So they could never get a federal law passed that made lynching a crime, even now. Theoretically under the Civil Rights Act it may be a crime. And the word "lynch" is a dynamite word when that Clarence Thomas person was being scrutinized he referred to it as a lynching. And of course that was an oversimplification.

Hughes: Well, let's go back to another turbulent time: Had you closely followed Senator Kennedy's tragic 1968 run for the presidency?

Smith: Yes. I was on the Superior Court when he was running for president, and I could not participate in partisan political activities. So when he was in Seattle for an appearance, I could not attend because it was a partisan political activity.

Hughes: That would violate the canons of judicial conduct, just to be there, to see an old friend?

Smith: Yes.

Hughes: Are the canons still that restrictive?

Smith: They are essentially the same. Sitting judges have to be very, very careful.

Hughes: So if you were a justice of the Washington Supreme Court, and Barack Obama was in town, and you wanted to meet him, that would be bad?

Smith: If it was during a *campaign*, I could not attend. If he is president of the United States, of course, justices of the Supreme Court can attend events for the president of the United States or for the governor of a state. But during campaigns you have to be very, very careful. In any case, Bob's secretary called me and arranged for me to meet with him privately.

Hughes: And you did?

Smith: A couple days before he was killed. (Justice Smith's voice quavers with emotion and he fights back tears)

Hughes: Was he optimistic about winning the nomination and his same buoyant self?

Smith: Oh he was. He was moving ahead with his campaign, headed for California. And there was no premonition of death. And of course even the way it happened it's still hard to understand. It's hard to know whether Sirhan Sirhan's act was that of a mentally ill person or whether it was part of some kind of conspiracy. And I do not deal in conspiracy theories.

Hughes: Just a few months earlier, Dr. King was murdered. My remembrance is that in Philadelphia you and Martin Luther King Jr., if not bosom friends, were friendly. You were about the same age, weren't you?

Smith: He was a few years younger than I. But when he was in Divinity School I was at Temple University, and he was the intern at our church in Philadelphia – Bright Hope Baptist Church, which is the church that Bill Gray III pastored after his father. He was third generation. William H. Gray Sr. pastored the church. He was followed by William H. Gray Jr., my mentor, who was followed by William H. Gray III.

Hughes: Had you stayed in touch with Martin over the years?

Smith: I had very little communication with him at all.

Hughes: What went through your brain and your heart when you heard that he had been killed? I remember hearing Senator Kennedy make the announcement to a largely black crowd that night on the campaign trail, trying to forestall the violence that ensued.

Smith: Well, I was saddened by it but I did not have the same reaction to his death as I had to Bob Kennedy's death because I had a more personal relationship with Bob Kennedy than I had with Martin. I was more interested in the games that were played legally with James Earl Ray, (who shot King) and the strange process by which this semi-literate person was able to do what he did, and to travel as he did. There was just something wrong about that picture, something that has not yet been solved. … And I could not help but believe that the fine hand of someone like J. Edgar Hoover was involved.

Hughes: Really? There is, by the way, a fascinating new biography of J. Edgar Hoover's early career with the Justice Department and the FBI. It tells how young Hoover was a workaholic, bright, single-mindedly determined, and ruthless. It's shocking to think that the director of the FBI would countenance such a thing, but he was no fan of Martin Luther King, to put it mildly, and he had dossiers on everybody, didn't he?

Smith: He did. That's what happened with the Kennedys. They were going to replace him. Then suddenly they weren't going to replace him. I do not have total disrespect for very many people, but among the people for whom I had total disrespect was J. Edgar Hoover.

Hughes: Had you met him?

Smith: I had not met him but I was subject to his whims in connection with my case in Chicago against Mr. Hoffa. We used to get daily reports from the FBI. Computers were not in common use at that time, and so they would be mimeograph reports. I could spot one that was based on a wire tap by the language it used. And instead of signing for it, I would send it back. So when it appeared that we were making progress in our grand jury investigations I had the full support of the FBI. When it appeared that we were not making progress in our investigation, I did not have support. If I went into say, Minneapolis, I could go into the FBI office and they would receive me, as they should, since I'm representing the government. But if J. Edgar Hoover's office – he individually or people working under him— decided that Charlie Smith was not making progress in his investigation, I'd come

by the office, but I couldn't even get to speak to the person in charge. … But this gets into Edward Bennett Williams and J. Edgar Hoover in the Bobby Baker Case.

Hughes: Didn't Baker have to do with selling grain futures or silos or something?

Smith: I don't remember what the details of it were. But Bobby Baker was a longtime aide to Lyndon B. Johnson when LBJ was Senate majority leader and vice president. (Editor's Note: Baker was a wheeler-dealer and stood accused of theft, fraud, tax evasion and influence peddling. He did business with an associate of Jimmy Hoffa. Edward Bennett Williams was his defense attorney.) There was a telephone call based upon a wire tap that became prominent in the Bobby Baker case, and it was a report that I had signed off on. I had nothing whatsoever to do with the Bobby Baker case. And I think I had left the government by that time. (1967). It became an issue, and there was a hearing to determine whether the report that I had signed that was based upon an FBI wire tap had contaminated the Hoffa case. So, we had a hearing before a judge in Chicago. I was living in Seattle, so I had to go to Chicago for that hearing to testify on this document as to, one, whether I had seen it, and two whether I knew it was based on a wire tap, and, three, whether it contaminated our case. As it turned out, it had to do with the $154,000 check that Irving Link had identified and that came from John Factor.

Hughes: What a tangled web we weave!

Smith: The judge ruled that the wire tap report did not contaminate our case because I *already* had the check in my possession. It wasn't a matter of discovering the check because I had it already. But all of this is to say that's the kind of thing that happened with J. Edgar Hoover. I never met the man, and never cared to meet him. Dirty tricks were played in the Hoover administration, either by J. Edgar Hoover himself or Clyde Tolson.

Hughes: Tolson was his pal and roommate, his longtime deputy at the FBI.

Smith: You ask what I think of J. Edgar Hoover. Well, that's what I think of J. Edgar Hoover.

Hughes: You're a retired lieutenant colonel in the United States Marine Corps Reserve. How did you end up in the Marine Corps, and is that any kind of cognitive dissonance for the man who discovered in his heart that he was a pacifist after being in the Army at 18 during World War II?

Smith: Not really. In 1973, the Marine Corps Judicial Division was headed by a brigadier general, Clyde Mann, M-a-n-n. The Defense Department had done an evaluation of the absence of persons of color in the judicial systems in the various branches of service. But the Marine Corps – in particular the judiciary in the Marine Corps – was *all white*. General Mann had an executive officer, Colonel Charles Keever, who was a practicing lawyer from Seattle. And he had suggested to General Mann that he recruit me to accept a commission in the Marine Corps to serve as a military judge.

Hughes: A commission at what rank?

Smith: I started out as a major.

Hughes: You're a field grade officer and you never even had to go to boot camp!

Smith: That's right. I didn't go through boot camp in the Army, but the Marine Corps did have an abbreviated officer training program for us. There were four of us who were brought in – a black woman from Ohio, a black man from Buffalo, New York, and a black man from Florida who ultimately was on the Florida Supreme Court and was ultimately a United States Court of Appeals judge for the Second Circuit. He's now retired.

Hughes: So would we have seen Major Smith doing the Marine obstacle course with a bayonet?

Smith: (Smiling) Never did any of that. It was almost surreal. But we went through a four-week program at the Naval Justice School. I did my duty mostly at Camp Pendleton.

Hughes: So what appealed to you about that? That had to really make you smile, from being an 18-year-old sergeant in the Army to being an instantly-minted major in the United States Marine Corps.

Smith: Yeah, it was fun. I liked the uniforms. I had to watch my weight. Once I had to be involved in a ceremony out at Sand Point (Naval Air Station in Seattle). And my wife said to me, "You're over weight." And I said, "No, I'm not." But I had to hold my breath in for three hours so I could fit into my uniform. So my weight control is based upon my ability to get into my Marine uniform. But I enjoyed the experience. And of course my work was more versatile than merely sitting as a judge. I would represent the Marine Corps in inter-service seminars. I would teach Marine lawyers on the Federal Rules of Evidence, which

were introduced in about 1976. In fact I was teaching the Federal Rules of Evidence at the law school. I would get a call from Headquarters Marines and they'd say, "Take out your calendar; when are you free?" I'd say, "I'm free then." "Fine, you're on orders." I'd get a call from somebody at Camp Pendleton, "I understand you're on orders. I'll pick you up at the airport." People I never even met. And I had an executive officer who was assigned to me most of the time I was in.

Hughes: That must have been really heartening. First, you've got the training. The corps knows it needs to make changes in a lily-white branch, and you're really making some strides.

Smith: Ultimately, while assigned to Headquarters Marines in Arlington (Washington, D.C., area) I did a study of the under-utilization of persons of color in the ranks of the Marine Corps.

Hughes: Has the Marine Corps made real strides?

Smith: Oh, it's changed so radically. I'm still a member of the Reserve Officers Association and I get all their materials on computer and in the mail. And you see brown faces, women and men, all ranks.

Hughes: During that time did you meet General Colin Powell?

Smith: No, I met General Powell in connection with another activity later on.

Hughes: Is he all that he seems to be?

Smith: When Colin Powell was Secretary of State and I was on the United States Commission on International Religious Freedom, we would meet with the Secretary of State periodically. And I was bowled over by him, his total command. We'd be in a conference room and he would make certain *everybody* had a chance to say something. He'd turn to me and say, "Justice Smith, what do you have to say?" That kind of thing. Again not a big deal, but it represented the quality of person that he is, and I have been a fan of his from that encounter. I had read a lot about him, but had never met him. But meeting him, and sitting in meetings with him, to see his sensitivity and his control, his knowing how to conduct a meeting and that kind of thing overwhelmed me to the point where I told Elie that if General Powell had run for president I'd be out campaigning for

him. At the same time, I have the same impression of Condoleezza Rice, believe it or not.

Hughes: Wasn't that a remarkable statement that she made on the morning after Obama's election.

Smith: She finally admitted it. She could not afford to admit it before then. But here is a young woman who grew up in segregated Birmingham, Alabama, who had been saying that she had not experienced discrimination in her life. And that *certainly* was not true. But that statement that she made after the election, I told Elie, it's too bad that she's so tied up with the Bush Administration. If Condoleezza Rice were appointed to something, I'd be in support of her.

Hughes: So it's 1973. You've left the Superior Court bench. You've been in the trenches with young people and endured all the frustration over not being able to make the kind of difference you want to make. Is that when you join the faculty at the University of Washington Law School?

Smith: Right. When I left the Superior Court I went to the Law School.

Hughes: How did that come to be? There must have been some overtures there because you're an associate dean immediately, are you not?

Smith: Yes. When I announced that I was leaving the Superior Court in 1973 I had overtures from law firms.

Hughes: The same ones that in 1955 wouldn't look at a person of color? That's only 18 years. Isn't that pretty remarkable how far we'd come?

Smith: Well, there was a difference between a person fresh out of law school and one who had served on the Superior Court … The background that I had.

Hughes: Certainly, but in 1955 even if you'd had some credentials as a lawyer someplace else, they wouldn't have let you in the door in lily-white Seattle law firm circles?

Smith: (Nods) But in the meantime, on the faculty at the Law School were people I knew very well, some of my former professors and some of my contemporaries. And I had voluntarily conducted a course at the law school, "Problems of Judicial Administration." So a combination of many different things led to the faculty asking the dean to recruit me for the law school when they learned that I was leaving the court.

Hughes: You had had such a happy experience in law school, and now to come back 18 years later must have been like coming home in a lot of ways, wasn't it?

Smith: In a large sense it was. I had to make the choice between a law firm where I would make good money, and the law school, which paid me a decent salary but you can't compare law school salaries with law firms.

Hughes: You've never been motivated by money much, have you?

Smith: No, that's why I'm a poor man! (laughs) As long as I'm able to pay for gasoline and food and send four children to college, that's where all my money has gone.

Hughes: Tell me about it!

Smith: I told my children, "Apply yourself and get a good education, and your parents will be responsible." So my daughter went to Vassar, and Michael went to MIT, and even back in those days it wasn't cheap. … My granddaughter is now at George Washington and tuition is $55,000. … At any rate, the law school dean invited me to join the faculty.

Hughes: Who was that?

Smith: Richard S.L. Roddis, R-o-d-d-i-s. He's now dead. Dick was a former commissioner of insurance for California, and was a specialist in the insurance field. Just a wonderful person. He wrote me a letter and said, "I know you have a decision to make, but you should consider the Law School because you have a faculty that knows you and wants you and you have the opportunity to help the students. (Justice Smith grows emotional at the memory.)

Hughes: What a wonderful memory. *You were really wanted*.

Smith: So I decided to go to the Law School.

Hughes: You know I have to tell you, judge, I have this wonderful job now, but I was a journalist for nearly 43 years. I've met a lot of interesting people, a lot of famous people. I interviewed three presidents of the United States. The fact that you are so moved by these landmark events in your life, really tells me a lot about you. … Dean Roddis must have been a really special person.

Smith: And of course in my arrogance I said, "I'll only accept it with a full tenured professorship, unanimous choice of the faculty, unanimous choice of the Board of Regents."

Hughes: And you got it?

Smith: I got it. So I started out as a full-tenured professor, and unanimous choice of the faculty and the Board of Regents. I knew the politics of law schools, and I knew in my experience as a member of the faculty where we had people who were invited to the faculty by the divided vote of the faculty, and that's the worst thing that could happen.

Hughes: Was that the best job you've ever had, teaching all those bright young people?

Smith: Everything is relative. Certainly my time at the Law School was great for me because I still have my former students that I'm in touch with. In fact, I have a letter I haven't opened today from JoAnn Yukimura who unsuccessfully ran for mayor of Kauai. And JoAnn was mayor some years ago and was defeated after Hurricane Iniki. I don't know whether she's writing to explain to me how she lost the election. But this is one of my former students who has been a significant environmentalist in Hawaii. She has been a major mover in the political and economic life on the Island. I'm very proud of her. And so I could go down the list.

Hughes: What's the major success story from all the former Smith students?

Smith: There's Richard Jones, on the United States District Court; Ricardo Martinez, United States District Court. I had nothing to do with them achieving their success, except that they were my former students. I could go down the list. Judge Ronald E. Cox and Judge Kevin Korsmo are former students. Judge Anne Ellington of the Court of Appeals is another. I can better identify the success of my former students by those who have become judges. That's where I take great pride in being a law professor and having had such students.

Hughes: Did you get to spend a lot of time in the classroom? Or were a lot of your duties as an associate dean administrative?

Smith: I taught a regular class, which isn't much in law school, maybe six hours a week in class. But the administrative responsibilities as associate dean were not that burdensome in the sense that my students always had an open door to come in and talk with me about class work, about family problems, or anything else like that.

Hughes: That happy tenure at the University of Washington from 1973 to 1983 allowed you to do a lot more community activities as well. Isn't that when you began to become

really active in the American Baptist Churches, or had you been active there all along?

Smith: I had been active earlier, and I continued while I was at the Law School. I started out with American Baptist Churches in 1965 as a member of the governing board. I continued and became president in 1977. I was at the Law School for five years of that time. But the good thing about law schools is that though I always believed that students were entitled to get the teaching that they pay tuition for, at the same time my students knew what I was doing. And if I had to be in New York next week I'd let my students know and tell them "We will not have class – keep studying." I was also involved with the Interreligious Task Force on Soviet Jewry during this time.

Hughes: And with KOMO radio and TV as a commentator at the same time, from 1973 to 1979.

Smith: Right.

Hughes: What were some of those commentaries like? What sort of things were you lobbing out there? Were you the Ken Schram of your day?

Smith: No. I wasn't on staff. I had an independent contract with the station. They could not interfere in my subject matter or content. So I would talk about whatever came to my mind.

Hughes: What are some of the things that came to your mind?

Smith: Things in the newspapers. For example, if I were doing my commentaries today I'd do something about Barack Obama and whatever I thought about his plans. But usually it was based upon current events. With the technology at that time, KOMO did not preserve any of my commentaries… They were using the old Sony Beta format, and they would record over them.

Hughes: Even kinescopes from the 1950s were better than that process. You couldn't record over those, as I understand it.

Smith: Right. And so somewhere I have written copies of my commentaries. I think they're in storage space in the house in Olympia. I have to go look for them because I would like to find them. But I always did my own research, I did my own writing.

Hughes: How long was a commentary?

Smith: Ninety seconds on television.

Hughes: Talk about the discipline of writing: Saying something in 90 seconds and getting your point across.

Smith: I would work on the script. Record it, listen to it, and rewrite. My daughter would criticize my sexist language.

Hughes: Was she a teenager at the time?

Smith: A teenager at the time.

Hughes: Which daughter is that?

Smith: My only daughter, Felicia, who is now a lawyer.

Hughes: Well, at that time you're in the throes of Watergate, then Gerald R. Ford's pardon of Nixon, and the rise of Jimmy Carter. What were some of your comments on those developments?

Smith: I remember saying that Mr. Nixon was in fact a crook!

Hughes: (Laughing). Nixon had said, "People need to know their president's not a crook, and I am not a crook."

Smith: In response to that comment I said, "He looks like he's on drugs." I made some wild statements. And I'm not a wild person.

Hughes: I can tell.

Smith: I'll tell you about the only time I had a run-in with KOMO. I used to prerecord my television commentaries. You may or may not know that I also was on radio, and I did radio four times a day, three times a week, so they would rebroadcast. I would record my radio commentaries, which were two minutes, and I would probably do several weeks of them at a time. I once had to be in Europe for something, so I prerecorded my television presentation. It had to do with criticism of a group in Seattle – Citizens against Mandatory Busing, which was agitating for recall of the Seattle School Board. I prerecorded it, left it with the station, and said "Goodbye I'll see you next week." Somebody in the station got nervous and decided to refer it to their lawyers in New York for review.

Hughes: What did they think a former judge and law school professor would be throwing out that was defamatory?

Smith: Oh, who knows? And of course you came up from the print media and you know the electronic media is just as skittish about propriety. They wanted to make sure that their wild commentator Charlie Smith did not say something that would get them in trouble.

Hughes: That's funny.

Smith: So the lawyers in New York, who I didn't know and never met, advised them to get a counter commentary with someone from the Citizens against Mandatory Busing.

Hughes: Oh, I see: This is "Fairness Doctrine" kind of stuff that's worrying them.

Smith: Yeah. So they did. John Mucklestone, who happened to be a personal friend of mine, recorded a response that went essentially to this effect, "I know Charlie Smith. I respect what he has to say. I just don't agree with him on this."

Hughes: Civility.

Smith: It was a beautiful thing. And I came back and found out they had done that, and it just happened that one time. It worked out fine because John Mucklestone was a first-class lawyer, so his response was totally acceptable to me, but this was done without my permission. So I decided from that point on if I wasn't going to be live on camera, I would not prerecord my commentaries. That was the *only* time I prerecorded a television presentation, and I was with KOMO from 1973-1979.

Hughes: Outside of Ken Schram on KOMO, you hardly ever see any commentary on local network affiliate television any more.

Smith: Yeah, and the television stations have gone through transitions. Initially they came up with the kind of thing I was doing.

Hughes: Lloyd Cooney was on KIRO doing his talked-about editorials.

Smith: Right. That was because the head of the Federal Communications Agency required community involvement from the electronic media. So I was part of the movement on the part of KOMO to have community involvement. I was designated the commentator on community affairs.

Hughes: Did they put your picture on the side of buses or billboards or any of that?

Smith: Well, they didn't go that far but they did have brochures that they distributed.

Back in those the days, the way the station would monitor the value of things such as commentaries was by telephone calls.

Hughes: What kind of response did Charlie Z. Smith generate?

Smith: Well, I knew the ones that would draw the angriest response. But people did not know I didn't work for the station. I had an independent contract, so they couldn't get me fired. But in my commentaries on Indian fishing rights, the fishing industry would have an organized telephone call-in campaign. If I made a comment about Richard Nixon, which never would have been positive, the switchboard would light up and they would catalog about 360 calls, or 135 for or against it. People who agree with you don't normally make calls. But the people who don't agree with you *do* make the calls. And so it was funny to me. Some person on the staff of KOMO would share with me the results of the telephone calls from time to time, but not to influence me. Just to let me know what the responses were.

Hughes: Would they ever get thousands of calls?

Smith: The most they ever got was 360. I think when I made my comment about Nixon I hit the wrong nerve with a lot of people.

Hughes: We tend to forget that politics in King County, Washington, are dramatically different today than they were then.

Smith: Oh yes.

Hughes: So why leave the Law School? In 1982 you joined Ted Rosenblume in private practice. You hang out your shingle … for the first time in 20 years.

Smith: Right. … I had the opportunity for early retirement from the university. John Spellman was governor then and the state was having money problems and they encouraged early retirement. I had been at the law school I think for 10 years, and decided to take early retirement. Ted Rosenblume was one of my classmates in Law School, and had persuaded me that private practice would be a good experience for me because I had not had *significant* private practice experience. I had been working with Ted while I was still on the faculty of the Law School. When I retired from the Law School I was free to go into practice full time.

Hughes: Was Ted right? Was private practice interesting? (Protracted silence before laughter)

Smith: Well, it's a combination of several things. And my relationship with Ted has not been the best relationship. I found out that I was the rain maker for the firm. And I ended up with a substantial financial burden when I left the law firm to come on the Supreme Court in 1988. Ted was of the opinion that I should have taken an immediate leave of absence from the Washington Supreme Court after accepting the appointment and that was to me just an idiotic idea.

Hughes: You're appointed to the high court in 1988 by Governor Booth Gardner and your partner feels you should immediately take a leave of absence to settle the firm's outstanding cases?

Smith: Right. And every little thing you ask brings up more history. I had previously been offered an appointment to the high court by John Spellman and I turned it down.

Hughes: So that would have been when?

Smith: 1981, because I was then developing my relationship with my classmate. I told Ted that I had been offered a position on the Supreme Court but I was turning it down. So seven years later when Booth Gardner offered me the position on the Supreme Court and I went to Ted and said, "It has come up again. I've been offered a position on the Supreme Court. Should I take it?" And he said, "I think you should take it." I took that as his consent and agreement to my leaving the firm. I didn't pursue it with him any further. I just told him, "OK, I'll take the appointment." … I was with Ted for five years, and it ended up with him being unhappy over my departure. So the private practice experience could have been a good one but it wasn't because of that kind of thing. Of all these things I have done, the one activity that I have had that I do not look upon with a smile on my face is the time that I was in private practice with Ted.

Hughes: Did Governor Gardner approach you directly about the Supreme Court appointment? How does that work?

(A full minute of silence ensues)

Smith: In the very nature of things, when governors make appointments there are several

processes that occur. I use the word "recruitment" for myself because that's the way I have done things, is to be recruited. I have never applied. Well, I applied for a job once and I didn't get it. But I ended up talking with Booth, whom I didn't know. I had met him once, and essentially the conversation went this way: "I understand that if I offer you an appointment to the Supreme Court you would turn it down." He had heard I had turned down a previous governor. And I said, "Why don't you make me an offer?" He said, "OK, I'm offering it to you." And I said, "Fine, I'll take it!" It went like that. But in the meantime there were public announcements that the governor was considering a group of persons who were identified by name.

Hughes: Including Carl Maxey of Spokane?

Smith: Including Carl Maxey. Including (future justice) Richard Guy. The person in Booth's office would call me and say, "We're going to issue a news release saying we're considering these people. Do you have any objection?" I said, "I don't care," because I had already been offered the position and already accepted it. So they were playing this game by announcing this and that. Chris (Gregoire) has done the same thing with her recent appointments. And all of a sudden, bang, they announced that Charlie Smith had been appointed to the court. And this didn't happen overnight; it was already in process.

Hughes: So you'd had this real straightforward conversation with the governor. You'd accepted the job; then the press office rolls out the boiler plate that other names are being considered. And a few days or a week transpire. Then they announce that you're it?

Smith: Oh, more than a few days and more than a few weeks. In fact, I read the book about Carl Maxey where his surviving wife says that the greatest disappointment in his life was that he was not appointed to the Supreme Court.

Hughes: Did you know Carl?

Smith: I knew Carl very well. In fact the Loren Miller Bar Association, which is the predominately black bar association, had a roast of Carl during the time before any public announcement was made on the appointment to the Supreme Court. I was one of the roasters. I did a voodoo doll and announced that Carl was being considered for an appointment to the Supreme Court and that in order to bring a halt to his phenomenal rise

I was sticking pins in the voodoo doll.

Hughes: A news story about your appointment summarized that the governor believed you had "the potential to bring a new level of balance and direction to a high court that regularly produces decisions on its toughest cases by 5-4 margin." Had he imparted that notion when he talked to you?

Smith: No, nothing at all.

Hughes: And they also made something in the news stories about you being a Republican, while Gardner was a Democrat, although we now know from our conversations that you were obliged to be a "Republican" back in the Charles O. Carroll days and had the obligation to head the Young Lawyers for Nixon rather than it being some strong philosophical thing. Did Governor Gardner ask you about your politics?

Smith: The only thing that Booth mentioned to me that would *sort* of fall into that category, and it wasn't necessarily political, had to do with residence in Olympia. There had been some concern by the sitting justices on the court that justices ought to be resident in Olympia rather than commuting from other places.

Hughes: Did that make sense to you?

Smith: It did in this sense, and I'm leading up to sort of a sociological thing. Booth said to me, "Would you have any objection to living in Olympia?" And my response was, "Let me tell you a story." When my first child was born, he was the first child of color born in St. Peter's Hospital in Olympia in 1956. I was working in Seattle and my wife was living here in Olympia. And she was under partial sedation, and the nurses were taking book to see whether the child would come out looking like a monkey.

Hughes: Seriously? They said that?

Smith: Yeah.

Hughes: Oh my God.

Smith: So I said to Booth, "What do you think? Do you think I want to live in Olympia?" But times have changed, you know. Carlos is now 52 years old. But that was my experience in Olympia when I was a law clerk here for Justice Matt Hill. The only reason that I had a place to stay was that Justice Bob Utter arranged with his landlord to let us move into the

apartment that he and Betty were leaving.

Hughes: Did the landlord have any compunction about a mixed-race family or did he realize that (with Utter as a reference) he was getting some wonderful people as renters?

Smith: Just wonderful people. You know, systems are manipulated by many factors and so it isn't so much a white person here, or a non-white person there, or where the prejudice comes from, or where it begins and where it starts. Everything is relative. But an interesting thing is about one of the Supreme Court justices who interviewed me back in 1955, but who did not hire me.

Hughes: For the clerkship?

Smith: Yeah, for the clerkship with Judge Hill. Later he became a good friend of mine. … And he shared with me: "I wanted to hire you, but I didn't think you'd be able to find a place to stay." … So here is a Supreme Court Justice who shares with me the fact that the reason that he did not offer me a position was he wasn't sure I'd find a place to stay. Now if I were going to hire somebody who I didn't think could find a place to stay, I'd go out and find a place for them to stay. This was 1955 and if this happened in 2005 it would be a different thing. But at any rate, that was the only thing that came up with Booth Gardner.

Hughes: What did Booth say about your story about the hospital staff?

Smith: He didn't *really* have any reaction to it. But I told him that I had no objection to living in Olympia. I just wasn't sure if my wife would want to live in Olympia. So when I was appointed, I rented a condominium for a year so that I would be here every day, full time. And then I decided to buy a house, which I now occupy and intend to occupy even though my wife wants me to get rid of it. It's my home away from home. But the idea of the residency of the Supreme Court justices was the *only* point that he brought up with me.

Hughes: So it took 99 years of statehood to achieve that step of having an ethnic minority on the Washington Supreme Court. Were you welcomed? Were your fellow justices welcoming?

Smith: Oh yes. They were persons I had known previously.

Hughes: So is Justice Utter already on the court and Justice Dolliver?

Smith: Utter, Dolliver —

Hughes: Andersen?

Smith: Jimmy Andersen. In fact I carried Jimmy Andersen's books when I was a prosecutor. My first trial was with Jimmy Andersen.

Hughes: I'm also finishing up an interview tomorrow with the inimitable Adele Ferguson, the first female member of the press corps at the Capitol.

Smith: Oh yeah.

Hughes: She's a remarkable piece of work, judge. She sends you her best.

Smith: Give her my regards.

Hughes: I will. She says there's "One thing about Charlie: He's wishy-washy on the death penalty." She said, "You can say I said that."

Smith: (laughs)

Hughes: Some people – admirers too— have characterized your tenure as a Supreme Court justice as being a conciliator. And someone said you seemed on the whole to be less interested in the nuts and bolts of jurisprudence than in the ability to influence people. What kind of grade do you give yourself?

Smith: That's a hard one. In fact, I will give you a compilation of all my opinions to review.

Hughes: That would be very helpful. Can we talk a third time?

Smith: Oh yes.

Hughes: Great.

Smith: I don't think that these two sessions will give you the information that you need to know.

Hughes: I quite agree. I just didn't want to impose on you.

Smith: I'm available on a continuing basis.

Hughes: I listened to the Densho interviews and thought they were very good, but we've touched on things that I haven't read about anywhere before. Is it interesting for you, too?

Smith: Interesting in the sense that it's part of our conversation.

Hughes: OK. But it's important history, too, judge.

Smith: Well, number one, I don't think I'm a good subject. And, number two, there are

so many little things in my life that I haven't even thought about until somebody touches a button and all of a sudden my mind is refreshed.

Hughes: That's the best thing about oral history! So let's take another 10 minutes today and put our toes in the water on your Supreme Court career. How would you characterize it?

Smith: It was, aside from the three-year "reign of terror" …

Hughes: We'll talk about that, I hope.

Smith: We won't talk about that today. Aside from that, I thought it was a good experience. And back to the question of my style, I think that law is more like mathematics than it is anything else. Cases before the Supreme Court are decided on the basis of the facts of the case, the law as presented by the lawyer, and the determination that is made by the judicial officials in coming to a conclusion. And it is not based upon the personal opinion of the judge. This is where Adele gets into the death penalty thing.

Hughes: Isn't it interesting that a lot of people who rail against "activist" judges, what they're really saying is that they don't like the other side's activist judges. They want *their* activist judges in there.

Smith: Right. I cannot identify a philosophical bent of my opinions. In fact I didn't remember any of my opinions until I saw this notebook that was done in connection with my retirement. It's a summary of all the cases that I decided. It's a big thick book and it will be available to you. But on the death penalty thing – and Adele recognizes this because she's a very observant person – I am personally opposed to the death penalty. Prior to coming on the court I was a member of the board of Citizens Against the Death Penalty. However, I have written one or two opinions where the death penalty was upheld because it's not my job to cast aside the death penalty just because I do not like it. My job was to determine whether the person who was subjected to the death penalty had a fair trial. The only first-degree murder case I can remember is Cal Brown, whose case *recently* was affirmed by one of the federal courts. Jim Dolliver once wrote an opinion in a death penalty case where, speaking for the court, we upheld the death penalty, but he wrote a dissent to his own opinion in which he said the death penalty is a terrible thing.

Hughes: Classic Dolliver.

Smith: Right. And I joined in Jim Dolliver's dissent, even though I had signed the majority opinion.

Hughes: Is that highly unusual?

Smith: Very unusual. I think that certainly in state courts it's unusual, but not in the federal courts. In the United States Supreme Court, anything could happen in terms of alignment. But it is unusual that a person would write a dissent to their own opinion. I liked Jim's dissent because I agreed with it, so I joined in.

Hughes: Among the judges you served with, was he one of those you most admired in terms of intellect and attitude toward jurisprudence?

Smith: I admired Jim Dolliver for many different reasons. One, he was brilliant. He was very active before he had his stroke. And after he had his stoke he insisted on continuing on the court. And then he had further health problems, and amputation. I visited him regularly until he died in 2004 at the age of 80. … He was very well read. He was aware of good literature, good art, politics. In his last days, he and I used to talk about political things. I'd go there and he had been sedated. He'd wake up, and we'd discuss politics. Just a remarkable person. I determined that I would spend as much time with him as possible.

Hughes: And a really robust Christian humanist as well.

Smith: Oh yeah. By the way, (Justice) Bob Utter and I were members of the same church.

Hughes: Were you classmates?

Smith: He was a year ahead of me at the UW. He was Class of '54 and I was '55. So our families were close together. His wife Betty is a good friend of my wife's. So I've known Bob over the years, and his father was



Surprise for Judge

About 20 former law clerks of State Supreme Court Judge Matthew W. Hill surprised the judge with a dinner at the Rainier Club and gifts including World Series tickets and plane tickets to get there. From left —Municipal Judge Charles Z. Smith and Superior Judge Robert F. Utter, who represented the former clerks in presenting a plaque of appreciation, Judge Hill and Mrs. Hill.

my Sunday school teacher, so we go back to those days. Bob understandably was a close friend of mine when we both served on the court. Other people on the court I had less of a personal history with them. But nevertheless they were all good people, except for the three-year period when the cabal was out to get me. But I can forgive them and still consider them my friends.

Hughes: Are you still giving serious thought to writing a book?

Smith: Oh yes.

Hughes: Is that the *Dark Side of the Temple*? Is that still the working title?

Smith: It's still the working title. But I've been thinking whether it should be *the* book or whether it should be a chapter in *a* book. Anyway, I haven't given up on it. My children say, "You've got to write it now because you may get sick, lose your memory or die."

END OF INTERVIEW II

Charles Z. Smith

November 12, 2008

Interview III

Charles Z. Smith

November 20, 2008

Hughes: It's November 20, 2008. We're resuming our oral history with Charles Z. Smith, retired Washington Supreme Court Justice. Judge, pick up on that correction you just gave me about the year it was that you went to live with Dr. Gray.

Smith: I had been thinking that I was 14 when I went to live with Dr. Gray. It was actually a year later. I was 15 rather than 14, and I think I was 15 and a half or something like that.

Hughes: And that was in Florida?

Smith: In Florida, right.

Hughes: And at that time Dr. Gray was the president of the University?

Smith: He was the president of what was then called Florida Normal & Industrial Institute in St. Augustine, Florida.

Hughes: What is it now, Florida A&M?

Smith: Florida A&M is a different school. Florida A&M is the state school. Florida Normal was a Baptist-related school and it is now located in Miami. It's called Florida Memorial University.

Hughes: But Dr. Gray did in fact move on to Florida A&M?

Smith: Yes. He was at Florida Normal for two or three years. Then he became president of Florida A&M, which was the black state college in Tallahassee. It is now called Florida A&M University.

Hughes: Here we are talking about trailblazing by minorities, and it looks as if Eric Holder is about to become the first black attorney general of the United States. Do you know anything about this gentleman?

Smith: I only know about him. I've met him a couple of times. But I have a very high impression of him. I think he is first class. And I think it's a great selection by the president-elect. Holder's background and experience cross political groups, I think. His reputation is very solid and I think he will bring great credit to the office of Attorney General.

Hughes: Well, let's go back to where we left off: You have just come to the high court. It's

1988. Who do you think would have vetted you, or given the governor good vibes about appointing Charles Smith to the Supreme Court

Smith: It is among the people who were quote, "In my corner." I'm sure Justice Bob Utter would be one. Bob and I go back many, many years.

Hughes: Would he be a good person for our next oral history?

Smith: Oh, he has a fabulous background. I think, even though he gets credit for a lot of things that he's done, he has not been featured in the manner in which the oral history project would feature him.

Hughes: That's what I noticed. … And Carolyn Dimmick, she being the first woman on the high court, would be a good interview, too?

Smith: Yes, Carolyn, and she's still functioning.

Hughes: She's still on the federal bench.

Smith: She's on senior status. … She left here and was appointed to the federal bench by President Reagan. And that's how Barbara Durham came onto the court. Carolyn's departure, even though she had not been confirmed (to the federal bench), cleared the way for Barbara Durham's appointment. The Reagan Administration was out to establish its relationship with women. Carolyn's credentials are outstanding. She was right ahead of me in law school, and I've been very fond of her over these years. She is an outstanding person.

Hughes: And if memory serves me, Bob Utter had clerked for Justice Hill in 1952, three years before you.

Smith: Actually it was immediately the year before me. I came here in '55 and Bob was his law clerk in '54.

Hughes: So when Governor Gardner went looking around to fill this vacancy it was likely that Justice Utter was someone who—

Smith: It's sort of hard to say how these things work, John, as you probably know.

Hughes: I'm learning that more and more.

Smith: The governor has his or her own insights, staff insights, friends, other people who are focusing attention on somebody. So when Bill Goodloe resigned from the Supreme

Court two years before his term was over, Governor Gardner had to find a replacement. How he went about it is somebody else's guess. They were issuing news releases that they were considering six people. … I can't remember the details of it except that for me it was almost like a joke because I had accepted the position and they would call me and tell me they were going to issue a news release. … So at any rate, among the things that happened, a special session of the Washington State Bar Board of Governors was called to interview me for an evaluation. How these things happen, I don't know, and again I keep saying I don't care. I roll with the punches because (the appointment) was not something I was looking for. When a door opens and somebody reaches out and pulls you in and says "You're it," I'll say "all right" or I'll say "no." That's the way my life has been.

Hughes: So the membership of the court when you arrived was Barbara Durham, Vernon Pearson, Jimmy Andersen, Jim Dolliver, Bob Utter, Keith Callow, Robert Brachtenbach and Fred Dore.

Smith: Right.

Hughes: How were you welcomed there in 1988? And who welcomed you most warmly?

Smith: Well, being welcomed is a relative thing. They were all my friends. I knew them all. So it was sort of like coming into my own neighborhood. My relationship with individuals was different. I had a closer relationship with Bob Utter, which went back to 1952. I had a close relationship with Jim Dolliver. Dolliver and Utter were the two people that I was closer to. The others I knew, and we were acquaintances and not necessarily buddies or good friends. But the atmosphere was very cordial. I think the principal difference is who responds upon the appointment. I got a letter from Jim Dolliver commending me on my appointment. Vern Pearson is everybody's *dream* person; he gets along with everybody. Vern was the chief justice when I came in. So I felt very much welcomed by the chief justice. And then of course Bob Utter and I, who have an ongoing personal relationship. So I was not coming into a group of strangers. And I had no reason to feel any kind of resentment or hostility or anything else like that. It was to me a very open and accepting environment.

Hughes: So what happened two years later, with this incident involving your law clerk and

his discharge? During this oral history, I've concluded that you are a very circumspect kind of fellow. And for you to get so mad that you tell the Tacoma City Club, "Even though I'm at the top of the judicial system, there are still people in my building who believe they can call me nigger and get away with it" – you had to be incensed.

Smith: When was that?

Hughes: This is a story in *The Seattle Times* in 1990. "His chin thrust forward, State Supreme Court Justice Charles Z. Smith glanced over the luncheon audience and declared. …" It goes on to say that you were a member of the Kramer Commission, the popular name for the Washington State Commission on the Cause and Prevention of Civil Disorders headed by then- Secretary of State A. Ludlow Kramer. It's February 22, 1990. The theme of this story is that you would not presume to be in a position to say whether conditions involving housing, jobs, or education were better for black people then than they were 20 years ago. But you said you were in a position to assess the state's judicial system. "I'd be anything less than candid to suggest that we have no problem," you're quoted as saying.

Smith: The comment about calling me "nigger" in "my building" is the kind of thing that I would have said in the *Superior* Court, but I cannot recall the basis upon which I would have said it in reference to the Temple of Justice. Other things happened to me, but being called "nigger" in the Temple of Justice is not part of my recollection.

Hughes: That's an important thing to correct there.

Smith: However, the expression of attitude is all the same. I cannot remember having said that at that time in the context of my being on the Supreme Court, but everything else that is quoted there certainly is correct. So whoever reported this, I'm not saying they misquoted me. I never say people misquote people. If they're there and they say I said it, I must have said it. I'm just trying to figure out what point of reference I would have had to say that. I just don't remember anyone in this building (the Temple of Justice) referring to me as "nigger."

Hughes: Well, needless to say, it was a stressful time for you. As recently as 2003 you told *The Seattle Times* and NPR that you were still planning to write "The Dark Side of the Temple" book that we talked about in our last session. You believed there were efforts by

five of your colleagues to intimidate you into resigning from the court in the early 1990s. It's your oral history so I don't know how far you want to go below the cuticle, but the fact is your law clerk was discharged in 1991 and you were *clearly, extremely* offended by that act.

Smith: Yes, very true. But firing the law clerk was only part of what I considered to be a "reign of terror."

Hughes: Tell me about that, judge.

Smith: Well, the Supreme Court operates under an executive committee, which is the chief justice and the top four senior justices. When Fred Dore was the chief justice, he had an executive committee but I was never on the executive committee, so that was a matter of exclusion in the first instance. However, the executive committee would have meetings and make decisions. And as an example, I came back from a meeting in New York and found out that they had mooted out an opinion that I had written without consulting me. And my law clerk who was a dentist, a pharmacist, and a lawyer, Dr. Carroll G. Rusk, was accused of improprieties.

Hughes: Is Rusk a person of color – a minority person?

Smith: No. He's Irish, something like that. At any rate, somehow or the other, Carroll Rusk rubbed somebody the wrong way, including one of my women law clerks, who claimed that he had sexually harassed her. And her reason for not discussing it with *me,* according to *her,* was she knew I would not believe her because my relationship with Dr. Rusk was too close. So all of this snowballed into confidential investigations conducted by Justice Jimmy Andersen. I was under essential protected guard of the Washington State Patrol in the early days because the … Washington State Patrol perceived that I would be in danger. So the State Patrol was assigned to cover my house twice a day, in the morning and in the evening. And I would regularly report to the State Patrol. And a particular captain, Ron Walcker, W-a-l-c-k-e-r, was assigned to supervise my security. I was out of town and upon my return, I got a call to meet with Captain Walcker. Instead of his coming to my office, he asked that I go to his office. So I went to his office and Jimmy Andersen was there. I then came to realize what was going on – that something was being manipulated

and somebody was managing it. I identified the person as Jimmy Andersen. A few weeks later, I had written an opinion on a death penalty case and Andersen and Brachtenbach decided to rewrite it. But we have here a rule that says no work can be undone after 180 days; otherwise you cannot draw your salary. So, on that death penalty case, because they had presumed to rewrite my opinion in conference, I asked for an extension of time, like 10 days or something like that. I got a note from Brachtenbach while I was sitting on the bench, "Did you know you perjured yourself?"

Hughes: Perjured yourself?

Smith: Right. Because I had signed an affidavit saying that I had no work past 180 days. So the next thing I know, I got a call from Jimmy Andersen saying, "You can't draw your salary. And I'll lend you the money to cover your salary."

Hughes: How extraordinary is this?

Smith: Though I don't use profanity, internally I thought, "Who the *hell* does he think he *is*?!" I said, "I don't *need* any assistance from you." Mary McQueen was the court administrator and they had arranged with Mary to withhold my salary. And I was to reimburse the state for my salary that month, which I did do out of my own pocket. And *this* was the kind of thing I was facing. In a sense I'm venting, but when I write my book, there is a *lot* more than that. But that's the kind of thing that was going on. Firing my law clerk was just a drop in the bucket.

Then I got a visit from (Justice) Richard Guy, who said, "You have to fire your law clerk."

I said, "Why?"

He said, "He's dangerous."

I said, "Dangerous to whom?"

And he said, "Politically dangerous to you."

I said, "I hire my law clerks. I fire my law clerks. I will not do it."

Next thing I knew Fred Dore had called a meeting with Mary McQueen. They called my law clerk in and fired him.

(Editor's Note: "The justices who voted to oust Rusk were Keith Callow, James Andersen,

Barbara Durham, Robert Brachtenbach, Richard Guy and Fred Dore. Justice Robert Utter voted against the firing, as did Justices James Dolliver and Smith," according to *The Seattle Times*.)

Hughes: Am I correct in stating that when you summarized, "I hire my law clerks; I fire my law clerks," that has long been the tradition in the Washington State Supreme Court?

Smith: The only time I've *ever* known of anybody other than the justice firing a law clerk was then. And of course Dr. Rusk turned around and sued us for a million dollars. There was a big lawsuit going on and all of that. (Editor's Note: Rusk filed a $19 million claim with the state, *The Seattle Times* reported in 2003, and it "quietly settled with him for $15,000, according to the state's Office of Financial Management.") But this was *only* sort of a drop in the bucket of what was going on during those three years. On TVW and in a couple of public speeches that I've made, I say that I consider 1990-1993 as being the period of a "reign of terror." The book that I threaten to write called *The Dark Side of the Temple* will be a semi-biographical book about my experience during the reign of terror.

It's hard to know what goes into antagonism. It may well be, for example, that when I had my investiture, the nature and extent of it bothered some people in a sense of a form of jealousy. For example, when I was sworn in, Keith Callow was then the chief justice. And Keith told me that the budget would only allow a hundred dollars for my reception so I could have cookies and punch. So I was sworn in here on the campus and we had a cookies-and-punch reception. I had a friend who was upset by that and said, "$15,000 would (be more like it)." Gene Wright, then on the United States Court of Appeals, who was one of my mentors, said the federal Courthouse was available because this building (the Temple of Justice) was under renovation. So when my investiture finally materialized, we had two courtrooms in the federal Courthouse, one with closed-circuit television furnished by my television station, KOMO. And we had a reception in the hotel across from the old federal Courthouse with closed-circuit television. It was a big event. And different representatives of my community activities, the Marine Corps, and this organization and that organization were specially identified and all of this. So it was big event, a larger event than normally would have happened for the Washington

State Supreme Court. In trying to figure out what the resentment was about I figured that *someone* decided that I was arrogant.

Hughes: Uppity maybe?

Smith: *Uppity.* And of course from a credential standpoint, my credentials were better than anybody else's. I'm still trying to figure out what it was all about, and I really don't know at this point. I could never take the stand and testify in court and say, "This is what happened." All I know is *this* is what happened.

Hughes: Knowing Bob Utter and Jim Dolliver as well as you did, did they ever offer any kind of insight or counsel for you about this matter?

Smith: Well, I never purposely discussed it with them. I think that just knowing Jim Dolliver, the way he reacted to things, I think Jim was disgusted with what was going on. Another aspect of it was that I got a note from Jimmy Andersen that said, "I think we ought to hire an investigator to look into the matter of the law clerk." Andersen wrote me this note right on the bench. We're in the same building, but there's little or no communication and they write me these notes. He said, "I think we ought to hire an investigator." And I said, "Fine with me." That same day, or the day after, I got a call from an investigator who Jimmy Andersen had already hired. He demanded a chance to meet with me. He met with me for six hours – interrogated me, and accused me of things. And after it was over I said, "I want a transcript of this meeting." He said, "I can't give it to you. It's confidential." And so this is the kind of thing that was occurring. You have a pot of water – polluted water – and you put a drop in it and you stir it up, and it gets worse and worse and worse and worse. … I have no intention of completing my full recollection of it at the moment. But that's the kind of thing that happened. My approach always was to never reveal to the public what is going on in house because the public is entitled to a better opinion of the operation of the Supreme Court than to know that dirty tricks are being carried out in the collegial atmosphere. So at any rate, that's all I will say about that.

Hughes: Are you still in contact with Rusk?

Smith: He went into private practice and I have not seen him since the year I retired – 2002. He got in touch with me because somebody in the media had gotten in touch with

him. But I have no idea what he's doing.

Hughes: And the young woman law clerk who didn't think you would be an unbiased person to come to because you were allegedly so close with Mr. Rusk? What became of her?

Smith: She left, and she went to Texas, and I had a request from the Texas Bar Association in connection with her application to the Texas Bar, whatever year it was, and I haven't heard from her since. … So much goes on in anybody's life. And although I can on the one hand claim to have lived a charmed life, there's an un-charmed part of my life that balances out the charmed part. The important thing is, am I still functioning and can I still smile and laugh? Of course I can because I'm perfectly happy with myself and I do not take seriously events in life that are caused by other people. My technique for surviving is to feel sorry for the other person because they don't know any better.

Hughes: You say the "reign of terror" lasted three years.

Smith: Three years: 1990-1993.

Hughes: In 2003, Keith Callow, who died earlier this year, told *The Seattle Times* that the Rusk episode was better left forgotten and could be potentially embarrassing to you if you wrote a book. He also said there was never a campaign to intimidate or harass you. You responded that Callow was entitled to his opinion, but "we have different attitudes and different backgrounds, and he was not the object of what I experienced." Also, in 2003, Justice Utter told *The Seattle Times* he believed the "harassment" was unintentional and done out of a "good-faith concern" that Rusk was acting improperly.

(Editor's Note: Justice Smith said he had no comment on Utter's observation.)

Hughes: So after that episode did you have some new colleagues who came on the court?

Smith: I think that was when Fred Dore retired. Fred had his own problems. …

Hughes: Tragically, Justice Dolliver had a stroke in the middle of all this, didn't he?

Smith: Right. And he continued on the court after his stroke, until he developed diabetes and had his amputation.

Hughes: So you get some new blood here in the form of Barbara Madsen, Gerry Alexander, Phil Talmadge and Charles W. Johnson, who arrived in somewhat controversial fashion,

having won an election where some speculated that if you are named Johnson or Smith or O'Brien in Washington State you can get in the door without great legal credentials.

Smith: And he turned out to be one of our best justices – Chuck Johnson. This whole business of the accidental election doesn't make sense. I've spent a lot of energy around the country answering that notion because *The New York Times* had the news article about the name game. But back to, Richard Guy, who came on the court after I did. He was Booth's next appointment, and had been on the short list when I was appointed. I once had a reception for Richard Guy during his campaign for re-election and with tongue in cheek I said, "Booth Gardner realized he had made a mistake in appointing me, and appointed Richard Guy." I think Richard to this day believes that.

And I found it difficult to deal with Fred Dore because all of my understanding of psychology did not equip me to deal with Fred's behavior. But with Barbara Durham, I could figure her out.

Hughes: How about this very interesting young man who came on the court after this episode, Phil Talmadge?

Smith: Phil was one of my former students, so I never had a problem with him. The only problem I had with Phil was after he left the court when he announced to us that he was going to represent some clients, and we said he couldn't represent them because he was still technically a pro-tem until all cases he sat on were concluded. So he withdrew his responsibility for 13 cases, and we had to hear them all over again. … But at any rate, Phil was a good person, and I never considered him antagonistic.

Hughes: What was it like to have a young woman like Barbara Madsen as a colleague?

Smith: Well, she's *bright*. She was young; she was finding her way, and she developed into a very good justice. And of course there was her background. She was sort of a surprise because she had been on the Seattle Municipal Court, where I started out. But I would never have thought that a judge could move from Seattle Municipal Court to the Washington State Supreme Court, and be good at it. She taught me a lesson. From my experience with her I came to realize that you cannot type-cast a person. You cannot have negative expectations because of what you perceive to be somebody's background or lack

of background. She's conscientious; she's bright; she's worked very hard … So I would rate her very high. In fact, all the judges on the court now, including our newest judge, Debra Stephens, I'd rate them all very highly.

Hughes: And your relationship with Gerry Alexander, now the chief justice?

Smith: Oh, he's a dreamboat.

Hughes: I'm impressed with Charles Sheldon's book, *The Washington High Bench.* I was sad to learn that he has passed on because I wanted to talk to him. To me, his book is really remarkable. However, you would be the one – you and your colleagues – to know how discerning he is in his analysis of the justices' opinions. For instance, in your biography, he says, "Smith's voting record indicates an effort to bring the high bench together. He participated in 179 cases from his appointment (on July 18, 1988) until May 31, 1990," which is when this book was wrapped up. "He wrote 25 opinions, of which 18 were unanimous. This unanimous percentage far exceeded that of the full court. Justice Smith tends to provide the swing vote in many split decisions, and he clearly is reluctant to dissent from a well-reasoned opinion. He refused to accept the majority's view in only two cases, one of which constituted his only written dissent." Is that an accurate overview?

Smith: At the time.

Hughes: Things got more interesting after that, did they, because you served for 12 more years?

Smith: I think Charles Sheldon's perceptions were good for what I'd done up to then. I knew him very well. He was a good friend. I think that his book is an authoritative book on the court. And like you, I regret that he has died. He was a magnificent human being as well as a scholar. And I think his comment about me is about as close as I would want someone to make a comment about my record of opinions on the court. And at that time, he made reference to my dissents. I think I probably dissented twice. I was not a dissenter on the court.

Hughes: What was the dissent – the most notable one?

Smith: The only one that I can remember… is one case in which a young Mexican man was charged with first-degree murder rising out of a brutal killing of an elderly woman. And the

state called a tracker to testify that he could track persons through raspberry bushes, and that based upon his expertise as a tracker, the perpetrator was a 26-year-old male Mexican who weighed 140 pounds. And the defense counsel did not object.

Hughes: This is some human bloodhound. He's able to discern all these things?

Smith: Yeah. And the defense counsel said, "You mean to tell me that you can determine nationality by tracking?"

He said, "Oh yeah."

The defense counsel said, "Well, I'm of Scandinavian ancestry. Would you be able to track me?"

He said, "Yes." And that was the cross-examination. So my reaction to that was this was sophistry. It made absolutely no legal sense, and should not have been allowed by the court, and it should not have been allowed by defense counsel who did not object to it. I don't even remember the name of the case, but that's one instance where I felt very strongly about it. I thought it was just awful.

Hughes: That's fascinating decision.

Smith: Once in a death penalty case, Jim Dolliver wrote the opinion for the court upholding the conviction *and* wrote a dissent to his majority opinion. I signed the majority opinion and also joined his dissent. But my own affirmative dissents were so limited that I know it was more than one, but not more than three.

Hughes: I read the case of Soundgarden v. Eikenberry in 1994 on the prior restraint of free speech regarding "erotic" sound recordings. You held that the definition of "erotic material" under the statute conformed to the definition of obscenity applied to minors, based on contemporary community standards, and therefore it wasn't void for "vagueness." But you said the statute itself constituted prior restraint upon protected speech as applied to adults. Then you concluded that the statute was "overbroad" because it reached conduct that is constitutionally protected. Was that a unanimous decision?

Smith: I have no recollection. I remember the case, but other than that.

Hughes: Was the 5-4 decision in the 1997 Pang case controversial? Martin Pang faced four counts of murder for the arson fire at a Seattle International District warehouse in 1995.

The murder counts were dismissed because, writing for the court majority, you ruled that the state was obligated to follow the decision of the federal Supreme Court of Brazil, which had ruled that a condition for the extradition of Pang was that he could not be prosecuted for the deaths of those four firefighters.

Smith: You've opened a can of worms!

Hughes: Have I? Good. I'm glad that a layman staying up all night reading these Supreme Court decisions could be smart enough to open a can of worms.

Smith: Mr. Pang was charged with setting the warehouse fire that resulted in the deaths of four firefighters. And the public was out for blood. King County Prosecutor Norm Maleng, wonderful person that he was, was out to satisfy the public's cry for blood. In the meantime Mr. Pang left the country and went to Brazil, so this gets into international law. States have nothing whatever to do with international law. But in order for him to be brought back to the United States, to the State of Washington, they had to have an extradition proceeding in Brazil, which had to be voted on by the Brazilian Supreme Court. Brazil does not have a death penalty. And in international affairs, countries with no death penalties will not extradite to a country that has a death penalty. So the Brazil Supreme Court ruled that Mr. Pang could be returned to the State of Washington on the condition that he not be subjected to the death penalty.

In the meantime, efforts were made by the King County Prosecutor, through then President Clinton, through the United States Embassy to interfere in this process. The Brazil Supreme Court issued seven different opinions, all written in Portuguese. We had to have them translated. We had a State Department translator who translated them. John Henry Browne represented Mr. Pang, and he had on his staff a young man who was born in Brazil and whose first language was Portuguese. So between John Henry Browne's office and his staff lawyer, who was fluent in Portuguese, writing and speaking, and the State Department translator, we had accurate transcripts of the seven Brazil Supreme Court opinions. It was *very* clear in those opinions that they would extradite Mr. Pang on the condition that he not be subjected to the death penalty. So Norm Maleng's office accepted him on the extradition order, brought him back to King County, then decided

that we didn't have to follow the orders of the Brazil Supreme Court. John Henry Browne brought it before the Supreme Court, and the case was assigned to me. I read those seven opinions, and I reached the conclusion that we had to honor the treaty between Brazil and the United States that said they will not extradite to a country that has the death penalty – and if they extradited him, it had to be on the condition that he not be subjected to the death penalty. We had to honor it. In the meantime, a decision was made between the Prosecutor's Office and John Henry Browne's office that Mr. Pang would plead guilty. And so it obviated the need to fight out the issue of the death penalty.

Hughes: Who are some of the best and brightest attorneys who appeared before the court during your tenure? Was Mr. Browne one of those?

Smith: John Henry Browne was one, but again I'd have to see a list. Debra Stephens, you know, she's on the court now. Debra was frequently before the court, and extremely capable as a lawyer. And I'm sure she's extremely capable as a Supreme Court justice.

Hughes: Did you ever have any instances where you empathized with the stage fright of someone coming before this august body of judges?

Smith: The one time I felt very sorry for a lawyer was a person in my age group, a little older than I. He had retired from the court but was practicing law. He appeared before the court arguing a case, and it was embarrassing to me to see my friend struggling to argue a case before the Supreme Court after a stellar career as a judge in our court system. And there is one instance when I recall an exceptionally good lawyer who appeared before us. I don't remember the details of the case, but it was an American Civil Liberties Union case and they brought in this lawyer from New York. He got into town just a few minutes before he had to appear in court. And he was absolutely phenomenally outstanding. I used to know his name very well because I've always admired him. He had a national reputation.

Hughes: If you think of it we can put it in the transcript.

Smith: And then we had a case once where a woman represented herself, not a lawyer, in a public disclosure records case.

Hughes: Is that extraordinary to have a non-lawyer appear before the state Supreme Court?

Smith: Yes, but we had it happen from time to time. The interesting thing is, she won her case.

Hughes: Are there any cases that are really vivid in your memory?

Smith: Well, there is one case, involving a rape charge against a tribal police officer, east of the mountains. And the woman was herself Native American. He had been assigned to transfer her from one jail facility to another. En route he drove into the woods and proceeded to rape her. And when he got to the destination he explained the stains on his trousers as being some lotion that he spilled. And they said this woman could not be believed because she was an alcoholic, and she was a liar, and it didn't happen the way she said it happened. Her response was that he had a gun, and she felt threatened that if she did not submit to him that he would kill her. Everybody referred to her by her pet name, like Sally or something like that. At *no time* did they give her a courtesy title. And I think I wrote the majority opinion in that case, which upheld the conviction of the defendant for rape. But also I had a strong statement about courtesy titles for women.

Hughes: They had completely marginalized her? She was just some Sally instead of being a real person?

Smith: Right. Throughout the case, the (presiding) judge had called her by her first name. The defense counsel called her by her first name.

Hughes: That really harkens back to the whole Jim Crow era of calling a person of color "boy."

Smith: Right. And of course in the so-called civil rights era, the U.S. Supreme Court ruled on a case, Alabama v. Hamilton, where it set aside a contempt conviction against Mrs. Mary Hamilton, who refused to answer when they kept referring to her as "Mary." And she said, "My name is Mrs. Mary Hamilton." She was held in contempt of court. The Alabama Supreme Court affirmed her contempt conviction, and it was appealed to the United States Supreme Court, which in one of the few times it has been right, set aside the conviction and said, "Women are entitled to courtesy titles." In my opinion involving the tribal officer, I cited Alabama v. Hamilton. And I have always insisted that women be given courtesy titles – that you *don't* address people in court by their first names. So if an attorney turned

to you and said, “John, what did you do?” instead of using your last name, that’s not allowed. So it’s either Mr., Mrs., Ms., Dr., whatever it happens to be, you always give them a courtesy title in court. Don’t address people by pet names in court.

Hughes: So, outside of those three unpleasant years, when you look back on it, did you really enjoy being on the Supreme Court?

Smith: Oh I enjoyed it. And of course I looked forward to retiring, even though some well-meaning writer wrote an article in *The Times* saying, “He doesn’t want to retire.” In fact, I looked forward to retirement because I had 20 years in the judicial system, and I felt that it was time for me to let go. I was at my full faculties six years ago, and I think I left the court without somebody saying, “Poor Charlie Smith. What’s happening to his mind?”

Hughes: What kind of grade do you give yourself as a Supreme Court justice?

Smith: I wouldn’t give myself an A. It would be somewhere in the B category. If I were to give a numerical factor to it, I would say 90-95.

Hughes: When you thought about retiring, you had some other things that you were looking forward to doing. It’s pretty amazing to me all the things you’ve been involved in. And before I forget an item that I just saw in my notes, sometimes when you refer to Mrs. Smith, you talk about her by her nickname. How do you spell “Elie”?



Eleanor and Charles Smith, investure for new term, Temple of Justice, January 13, 1997
Photo by Tsuguo “Ike” Ikeda

Smith: E-l-i-e.

Hughes: But it’s Eleanor, isn’t it?

Smith: Yes.

Hughes: Well, tell me about your involvement in the drive to seek redress for the 120,000 Japanese-American victims of internment during World War II. How did that come about?

Smith: I was on the board of the Japanese-American Citizens League. I had some close friends, Dr. Terrance Toda, an

optometrist, and Tak Kubota, who was of the Kubota landscaping family. There was a federally financed program – the Yesler-Atlantic Urban Renewal Program – and they were having management problems with the board. One of them called me and asked me if I would come and preside over the meeting. So I did, and then I continued with it as long as we had that going. In the process, I was invited to speak for the annual meeting of the Japanese-American Citizens League. Then I was invited to board membership. So I was on the board of the Seattle Chapter of the Japanese-American Citizens League for 25 years. And there were very few non-ethnic Japanese on the board. There were a couple of Caucasians, including the Rev. Andy Andrews, who was pastor of the Japanese Baptist Church, and who "walked on water." As we were meeting and discussing reparations, there were two members of the group, Shosuke Sasaki and Henry Miyatake. Henry was an engineer at Boeing and Shosuke was a retired editor for one of the big publishing companies. They had the idea that we should pursue reparations for persons who were incarcerated in the camps during the Second World War. Henry and Shosuke would meet at my house and we would discuss the idea, and the legal aspects of it. That was the beginning of a movement. Within the ranks of the Seattle Chapter of the Japanese-American Citizens League we had a reparations committee that was chaired by Ron Mamiya, now on the Seattle Municipal Court. And from that came the idea of a plan for reparations. The national group was not in favor of it.

Hughes: I hadn't realized that.

Smith: Right, the national JACL took the position that it was a radical idea and it was inconsistent with the personality of the Japanese culture. And at some point or the other Ron Mamiya, who was I think chairperson of that committee for the national group, became discouraged and gave up the position. But that was history. As it happened, Mike Lowry was in Congress and out of a combination of many different things, a federal commission was created to look into the issue by conducting hearings around the country. The only one I ever attended was in Seattle. The chairpersons of that group were a former senator and a Japanese-American judge from Philadelphia, Bill Marutani. The commission had its hearing and issued a report, which recommended reparations. Ultimately Mike

Lowry sponsored the bill for reparations and I think it was signed by President Reagan. It provided 1,673,000,000 dollars.

Hughes: That's a lot of money!

Smith: 20,000 dollars a person. That was it. What did I have to do with it? Not very much, but it was… (Justice Smith becomes emotional at the memory.)

Hughes: What an achievement. The book I lent you about Colonel Karl Bendetsen ("The Colonel & The Pacifist" by Klancy Clark de Nevers) features testimony that to me is really riveting in terms of the denial that was going on about abrogating Japanese-Americans' civil rights. Bendetsen was a Jew from Aberdeen who hid his ethnicity to get ahead and ended up overseeing the Japanese internment. Having grown up in a family where there was a portrait of Franklin Delano Roosevelt on the wall, it was always shocking to me that FDR signed off on the internment. … Eleanor Roosevelt was strongly against the internment.

Smith: Right. … My wife's mother named her Eleanor after Eleanor Roosevelt.

Hughes: Did anyone ever advance to you the notion that the slavery and other deprivations that African-Americans had been subjected to should be the subject of some form of monetary redress? Did that ever make any sense to you or is that too much water over the dam?

Smith: Well, I have to smile because a friend from Harvard, Professor Charles J. Ogletree, is a strong advocate of that idea. And it has always been sort of a joke before it was a serious approach to reparations that you were going to get 40 acres and a mule. So when the popular demand came up for reparations for blacks from slavery I said, "I'd like the 40 acres but I don't want the mule because I can't take care of the mule." I find the reparations for former slaves to be entirely different than reparations for Japanese-Americans because this was a direct experience where our government was responsible for putting people in concentration camps. So our government should pay for it. Was our government responsible for slavery? It was condoned, and slavery was a way of life in England as well as in the United States. Great Britain abolished slavery but slavery was occurring everywhere. But I could not reach the conclusion that my government owes

money to me or my progeny. I'm three generations removed from slavery. I look at slavery differently than some people do because in my family my great-grandfather never worked in the fields. He was a privileged person. And when he was 16 years old, the Emancipation Proclamation was signed, and his father gave him 300 acres of land.

Hughes: That was a lot of land.

Smith: So, you know, I can't say that my own historical experience with slavery is equal to other people's experience. I'm opposed to human bondage in any form.

Hughes: Sex slaves, you name it.

Smith: *Any* bondage is bad. And it even gets into the question of prison reform. Is every imprisonment justified merely because the person has committed a crime?

Hughes: You just read my mind. I was going to take us next to your views about the violations of the Geneva Conventions and the torture tactics at Abu Ghraib, the prison in Iraq, and the controversial imprisonments at Guantanamo Bay. President-elect Obama has said that from day one of his presidency he intends to abolish that prison. Of course the question now is who's safe to let go and *where* do they go?

Smith: It always embarrasses me when our government chooses to disregard a treaty, and the Geneva Convention has credibility. When our government says, "We don't care what it says," then you get people like Alberto Gonzales, who was chief counsel (to the president) and later U.S. Attorney General, who says, "We can do it. The president has this power." I think he was legally wrong. … I believe that we should honor the treaties, the Geneva Convention among them. But the United Nations has all kinds of treaties and protocols that we have signed, and even though we have signed them, we ignore them because somebody gives the president the belief that the president has the *executive* authority to ignore them. So you get into the prisons in Iraq and you get into Guantanamo Bay, which is interesting to me in part because that land belongs to Cuba and we have had a strained relationship with Cuba over the years. Nevertheless, we maintained authority over this land in Cuba. I don't even know the basis of the agreement under which we occupy that land. There are so many inconsistencies in the way our government works, and it depends in part upon who is in the White House. But the issue is not totally in the hands of the

president of the United States. The president has *certain* powers and *certain* authority. And the president can issue executive orders that have the impact of law. The president can say, "This is the way we're going to do it." And his staff will have to find the legal way to do it. But the big question is whether what the president directs is the *right* thing to do or the *wrong* thing to do. Torture is *never* acceptable. We condemned the Nazis for their various forms of torture and dehumanization. And then in the '90s and 2000s we're doing the same sorts of things. … Holding people without charge for five years and saying they're not entitled to the benefits of our constitutional system because they're not citizens, therefore we will treat them as if they are animals. This is what I'm *hoping* will be changed. I don't know whether soon-to-be President Obama is going to be able to do the things he would *like* to do. It's one thing to make promises during a campaign, and another thing to carry out those promises. I'm willing to give him the benefit of the doubt and give him a period of testing his authority. What I'd like for him to do is to open up communications with Cuba.

Hughes: Have you ever been to Cuba, the land of your father's ancestors?

Smith: I've never been to Cuba. When I could go, I couldn't afford to go. And when I could afford to go, I can't go. Back in the days when Yugoslavia was a country, you could get a permit to go through Canada and the Yugoslav Embassy to go to Cuba, but I never chose to do that. And I'm just hoping that we will normalize relations with Cuba so that if I felt like going I could go.

Hughes: Speaking of the new administration, would you be in favor of having Senator Clinton, whom you supported for president, become secretary of state? For the record, the judge is smiling broadly.

Smith: I think it would be great. I hope he'll offer it to her and I hope that she will accept it. I have the same question that everybody else has: What will Bill Clinton's role be? I think Bill is bright enough to know that he cannot interfere in his wife's activities as Secretary of State, if she becomes Secretary of State. But I think this is the best opportunity to use her talents. And she can work with the president, disagree with the president, but she can work in the best interests of the people of the United States and the

people of the world.

Hughes: You're certainly experienced in international issues regarding the family of man. Tell me about some of those activities and how you got involved in them.

Smith: When I was president of the American Baptist Churches, one of our principal interests was the plight of Jews in the old Soviet Union. And in that context I served on the Interreligious Taskforce on Soviet Jewry.

Hughes: What year was that, judge?

Smith: It was from 1977 to 1985. There were five of us. We had a nun; we had a Roman Catholic priest; we had a rabbi; we had a Methodist executive administrator, and we had a Catholic professor of religion. We also had somebody from the Episcopal Church on our committee. We would travel around the world.

Hughes: Where? Did you travel to Russia, to Israel?

Smith: Well, I've never been to Israel, and I went to Russia, not as part of the Interreligious Taskforce, but in my role as president in the American Baptist Churches. But for the Interreligious Taskforce we met in Rome, Madrid and Belgrade in the old Yugoslavia. We were sort of agitators. The Helsinki Accords group had a formal name (Final Act of the Conference on Security and Cooperation in Europe), and wherever they would meet, a national group had representation. We would meet with them and meet with the Vatican, and we would meet with the Russian delegation to agitate for opening up the immigration of Jews from the Soviet Union. In that context we also got involved with Amnesty International. I think it was in Rome that Amnesty International was having some hearings and they needed



United States Commission on International Religious Freedom, April 30, 2001
From left: Theodore Cardinal McCarrick, Justice Charles Z. Smith, Ms. Nina Shea, Elliott Abrams, chairman
Rabbi David Saperstein, Dean Michael K. Young, Dr. Laila Al-Maryati, M.D., Dr. Firuz Kazemzadeh, vice chairman

a judge. They drafted me to serve as one of the judges on the Amnesty International hearing on human rights violations. It was an exercise of persistence and goal orientation. We had individuals that we were interested in who ultimately were allowed to leave the Soviet Union and ultimately went to Israel, and ultimately became vital parts of the Israeli government. I don't know whether you've ever been involved in the diplomatic process, but the use of language in diplomacy is a very interesting thing. For example, when we met with representatives of the Vatican they would insist on speaking in Italian. And they would have an Italian translator to translate into English. My theory was that they needed time to think, and they needed time to revise their responses. But you have a person who's perfectly fluent in the English language but insists on speaking in their language. Same is true with the Russians. These Russians were perfectly fluent in the English language, but in meeting with them they would speak in Russian and have a Russian interpreter interpreting in English, going back and forth. It would take forever to get through a meeting or even just a conversation. But that's the way diplomacy works. Back in the old days when French was the language of diplomacy you had to be fluent in French in order to be a diplomat. Everyone spoke in French but you'd still have to have a translator. And to me that was fun, just watching this process.

Hughes: Tell me about your Christian faith and what it's meant to you.

Smith: I don't wear it on my sleeve. … You will never hear me say, "I believe in Jesus Christ as my Lord and Savior." I have spoken from pulpits but I *never* announce my religious faith. I think that religion is a way of life as opposed to something you talk about. I *think* that I have an inherent belief in the Christian religion as it has been taught to me. I have read the Bible, but I'm not a person who carries a Bible around and reads it. I think that religion is manifested by the way you conduct yourself and the way you treat other people. And all the clichés about doing unto others as you would like to have them do unto you – those are things that are part of my existence. And the Ten Commandments, I believe in the essence of them, but I never talk about religion as such. Am I religious person? I go to church, and I participate in religious activities gladly, and I take assignments of one kind or the other. Am I a person of faith? I would say that I am. Part of my religious belief is that

there is no one true religion. And I think this is a lesson that not many people learn during the course of their lifetimes – the lesson that "the way I think in a religious way, is not the *only* way," and that there is room for others who have a moral compass, whether they believe in a god, or whether they believe in the same god. This sort of leads into a local activity that I'm involved in: Camp Brotherhood, out in Snohomish County, that was initially started by Rabbi Raphael Levine.

Hughes: He was on an ecumenical TV show in Seattle for years with Father Treacy, a Catholic priest. I met Rabbi Levine. He was an amazing person, as was Father Treacy.

Smith: Right. And he's now dead. But Father William Treacy is still alive. He's retired from the active priesthood, but he lives at Camp Brotherhood. Camp Brotherhood was started 40 years ago by Rabbi Levine, and Father Treacy later came into it. Rabbi Levine had a vision about a camp for interfaith exchange. He located a piece of property, 300 acres, and got together a group of people, including me. I'm the only surviving member of the original board. We exist as an institution that prides itself on bringing in different religious groups. On our board we have two Muslims, Catholics, Protestants. The 300-acre campus has dormitories, cottages and meeting facilities.

Hughes: Is this for young people predominantly or for people of all ages?

Smith: People of all ages. In fact, we don't have enough people. Because we have the word "camp" in our name suggests it is a youth camp. It really is a conference facility. The budget is like three million dollars a year from contributions. The Warren Family, KOMO, donated one million two-hundred thousand to build a meeting hall.

Hughes: Is it in use a lot, year round?

Smith: Year round. There are residence facilities; there are dormitories; there are cottages. They have meetings – international groups, national groups. I'm nominally on the board. I don't want to let go.

Hughes: That's a wonderful project.

Smith: When I was on the court I could not actively participate because of meetings and that kind of thing, but after I left the court I was invited back on the board. I'd always been an honorary member of the board but I am a member of the active board right now. So

that is the dream of Rabbi Levine, who was killed in an automobile accident. And Father Treacy continues. He's the guiding spirit behind Camp Brotherhood right now. I hope in the future that we can continue to provide a forum for persons of various faiths to come together to discuss life and religion and all those other things that go along with it. To me, that is *probably* the greatest living tribute to interfaith existence that I am aware of that I have been involved in.

Hughes: I was once at a funeral at which Rabbi Levine presided and he had a memorable line, a comforting line. He said that "a good name endures beyond the grave."

Smith: Oh, I like that.

Hughes: According to Charles Sheldon, when Dr. Gray encouraged you to enter law school rather than pursuing a graduate degree in social work, he told you, "Law is a helping profession."

Smith: Yes.

Hughes: That could be the headline for the story of what you've tried to do with your career, couldn't it?

Smith: Maybe so.

Hughes: Is there a question you'd really like to answer that I haven't had the wit to ask?

Smith: No. My head is full of cans of worms.

Hughes: Really?

Smith: Yes, and if you press a button I'll start talking some more and you'll never be able to leave.

Hughes: Your birthday is coming up, right?

Smith: On February 23rd, 2009, I'll be 82 years old.

Hughes: My mother-in-law just got out a nursing home, and I see people a lot younger than you are who are not upright and still full of joy for life. It really is a crap shoot, this life of ours, isn't it?

Smith: It certainly is.

Hughes: So when you look back on these nearly 82 years, what are you most proud of? Any real regrets?

Smith: I have no real regrets. That's sort of a Pollyanna way at looking at life. And the great joy that I have is family, my children, and my grandchildren, and my wife. … If I were to do a sculpture it would be my wife and me, our four children, and our six grandchildren. That's my life.

Hughes: Well, judge, this has been one of the highlights of my career as an interviewer. I can't begin to tell you how much I've enjoyed it, and how much I admire what you've done in your life. You're a real inspiration.

Smith: Well, you're so bright and you're so capable, how you go about things. Your research skills are amazing.

Hughes: I didn't do it all by myself, but I appreciate that more than I can express. I'll bring you a transcript.

Smith: OK!

END OF INTERVIEW SERIES

Justice Smith's Roots

Jewell Dunn, a Legacy Project researcher, used U.S. Census reports, death certificates and other data to explore the roots of Justice Smith's family tree. Justice Smith's father, Juan Del Pino (sometimes rendered as Delpino or del Pino, and also known as John Smith) was the son of Manuel Del Pino (born in Cuba in 1877) and Herminia – also rendered as Elminia in one place – Del Pino (born in Cuba in 1875). Curiously, the 1910 Census lists the family name as Fernandez rather than Del Pino. This is likely an error or possibly a maternal name. The 1920 Census says Justice Smith's paternal uncle, for whom his father was likely named, came to the U.S. in 1900. A manifest from a ship shows a Juan Del Pino as a passenger to Florida on Jan. 24, 1900, but family members made more than one trip.



Justice Smith's father's name was reportedly changed from Juan Del Pino to John R. Smith by immigration officials in Florida. In the Census records, there is a contradiction as to his year and place of birth. In the 1910 Census, his birth year is listed as 1905, the place Florida. The 1920 Census lists him as "age 15, born in Florida." However, in the 1930 Census, his year of birth is listed as 1904 in Cuba. Justice Smith says his father told him he was born in Cuba.

Justice Smith's mother, Eva E. Love, was the daughter of Charles S. Love (born in North Carolina in 1871) and Julia R. Sellars (born in North Carolina in 1876). Eva was a twin and came from a large family. Julia and other family members are buried in the Love Family Cemetery in Franklin Township, Macon County, North Carolina.

Charles Zellender Smith, the future Washington Supreme Court justice, was born in Lakeland, Florida, on February 23, 1927.

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