

Grand Ronde Tribe Establishes Appeals Court

curing, the decision cast down by the appeals court is final, and stands forever.

In general, most any legal system could be called questionable when lacking an appeals process, which explains why English and Fasana worked arduously to put one in place. There were other reasons, though. Namely, cases were mounting up to a ridiculous number. "Astronomical," in the words of Fasana. Of these, the bulk was enrollment cases, or suits wherein applicants were denied admission into CTGR as Tribal members. The other cases involved employment. With that said, Fasana speculated that some appeals might take upwards of a year to consider, even with three judges.

A year? Well, nobody said things were going to be quicker.

"The appeals process has the potential to be very time-consuming and lengthy," Fasana added. "It can be slow."

Judge English felt that because the Tribe is a young sovereign nation and it's Tribal Court a fledgling one, the court needed a back up system in place. She was the one charged with setting the precedents. For posterity's sake, that was not a job she felt entirely comfortable doing alone.

"I think no matter what, it's always better to have four pairs of eyes looking at the law instead of one," she explained. "We're making some

important laws at the Tribe right now, laws that are sooo important to the Tribes' future. The more people who get to look, the more perspective you get."

English's support never waned even though basically what the appeals court will do is second-guess her decisions. No judge, she said, likes to have a decision overturned, including her. And in an effort to divest herself of personal interest she has even avoided getting to know the three new appointees. All this, she said, is for the better of the Tribe, which so far has achieved respectability on multiple levels.

"Grand Ronde is well-known around the country," she said. "I've been to judicial reviews and they know about us. Our decisions are often referred to by other Tribes."

Three new judges, all accomplished, should help sustain that healthy reputation. Chief Judge Don Costello already functions as the Chief Judge of the Coquille Tribal Court. Robert Miller serves as an Assistant Professor of Law at the Northwestern School of Law at Lewis & Clark College. One of his classes is actually Indian Law and he himself is an enrolled member of the Eastern Shawnee Tribe of Oklahoma, for the record. The third, David Thompson specializes in appellate law and is a licensed attorney in Portland. Looking at Costello, Miller, and Thompson, what they did compile was a balanced court with diverse backgrounds and personalities.

Here is some background information on each of the Appellate Judges:

Chief Justice Don Owen Costello

It is Fat Tuesday, a.k.a. Mardi Gras — as I sit here and type away. Undeniably I can't not point out the fact that Don Costello is a Chief Justice, and has been for a number of Tribes throughout Oregon, including Warm Springs, Burns Paiute, Coquille, and was at one point the Acting Judge for CTGR. All in all, add that he is an accomplished accordion player whose favorite is Louisiana zydeco great Clifton Chenier, the musical peers of whom included such wild New Orleans acts like Professor Longhair, the Wild Magnolias, and The Mardi Gras Indians. You can see why I have to make the connection. Big Chief, indeed.

Costello plays zydeco, Irish folk music and if

pushed "can play a Strauss Waltz." He also plays the African hand drums.

Costello tries his darndest to dispel the stereotype of stuffy, stiff-collared judge and performs admirably. His college days were spent at the University of California at Berkeley, during the late 1960's.

"I was an athlete (on the rowing team) during that time, so I didn't exactly participate in 'free love'," he told me over the phone, from his farm. "But I did have fun. Those were good times around there, back then."

After graduating with a Bachelor's of Arts degree in Anthropology in 1970, Costello acted briefly as a physical education instructor, rowing crew coach actually, at the University of Oregon before enrolling in the Northwest College of Law at Lewis & Clark College in Portland.

Once finished with his law degree in 1976, Costello began a career as a private practitioner the following year. His first stab in judicial capacities began in 1984 and it soon became a career. First he was a Municipal Court Judge in



Redmond, then Chief Judge of the Burns Paiute.

Costello appears qualified to be the Tribe's first-ever Chief Justice in the newly founded Appeals Court.

"I think this is an honor," he said. "Grand Ronde has an excellent court system and a fine judge in Katherine English. We're actually going to be in a pioneering role and I'm excited to be given this chance."

Like the other two, Costello will only come over when needed from his farm near Smith Rock. There he lives with his wife Denissia, of Costa Rican origins, and maintains 10 acres of land.

Robert Miller

Robert Miller went from being a used car salesman to being a lawman, which for some might be interpreted as both ends of the spectrum. By lawman I don't mean of the Wyatt Earp variety. No, I mean a man that in his own words is "deeply devoted to the law."

Miller's parents were part of the westward migration during the 1940's, his Shawnee mother moving west to find work in a Portland shipyard, his father a Missouri man. Miller never had reason to leave the Pacific Northwest, and has called Portland home for life.

Operating in the family business, first cleaning used cars and then managing, Miller got a late start on the college track. In 1988 he received his Bachelor's of Science Degree in Liberal Arts from Eastern Oregon State College (now Eastern Oregon University). He entered law school at the age of 41 and soon settled into a law career.

Graduating from Lewis & Clark's law school in 1991, he followed that by clerking for the Ninth Circuit U.S. Court of Appeals.

Miller also practiced law at one point, from 1992 to 1995 working as an attorney at the Stoel Rives law firm in Portland. Since 1994, he has served as an appellate judge for a handful of Tribes in the region.

But Miller's true calling came with his move to Hobbs, Straus, Dean & Walker, where he practiced Indian law and represented Tribal clients in federal and state court litigation. From 1996 to 1999 his focus was primarily Tribal housing issues and he had a notable part in implementing the Native American Housing Assistance and

Self-Determination Act.

In 1999, Miller joined the Northwestern School of Law as a full-time professor and has taught law classes at both Lewis & Clark and Portland State University. Miller also teaches at the Hatfield Institute for Tribal Government through PSU.

But there is more to Bob Miller than just the law, like two daughters for example, or an avid devotion to soccer. And then there's the traveling.

"Well, let's see, I've been to Europe, Mexico..." he told me, listing the countries. "I rented a car in Turkey, near Izmir, and drove up the coast to Istanbul. I also traveled through Greece."

Nothing quite compares with Costa Rica, his most recent adventure. Miller has learned to appreciate eco-tourism, that sect of vacationing of which the Central American country is king. There earlier in the year, he honed his developing skills at bird watching. He also witnessed first-hand the legendary return of the enormous leatherback turtle that combs the coast looking

for a nice haven to lay eggs, usually crawling up from the water during the late hours.

"That was just magnificent," he said. "The turtle was in a trance...you could walk right up to it."

David Thompson

Those who think that a political science degree can lead to anything would have a compelling case for their argument in

David Thompson. Though only 45 years of age, he got his feet wet in the legal field quite early. Acquiring a Bachelor's degree in Political Science from Stanford University in 1978, Thompson wasted no time in hitting the books. Enrolling in the University of Utah College of Law after his undergraduate career, he left that school law-licensed in 1983 and began a long and noted career as an attorney specializing in appellate law.

The call from Grand Ronde found Thompson in the eighteenth year of law practice, with experience in capital murder, criminal, civil rights and contract dispute cases.

Thompson has earned law licenses in Oregon, Colorado and Utah. He has also called his legal battlefield appellate courts in Oregon and Utah, the Oregon Department of Justice, the Utah Attorney General's Office, the Ninth Circuit Court of Appeals, Tenth Circuit Court of Appeals, and yes, the United States Supreme Court.

You'd think a man with such impressive credentials would have little time for anything else, and in a way, he doesn't. Though married, living in the Hawthorne District of Portland, Thompson and his wife have no children, yet. But he does have a greyhound, a prize garden and a proclivity for wading into high mountain streams with a supple rod and dancing a feathery lure across the water's surface, i.e. fly-fishing.

"I love to fly-fish when I can, usually hitting up the Deschutes," he said.

Like any other fly fisherman, he can't ignore the lure of Montana, a state he spends increasingly more time in.

"I caught a seven pound brown trout once," he labeled a prize catch. "And if you know fish, then you know that's pretty big for them."

I wouldn't doubt Thompson's knowledge of weight. He also gardens, not pansies and daisies, but manly gardening — tomatoes, squash, beans and 100-pound pumpkins. Seriously, 100 pounds.

"My neighbor and I have a contest," he said. "Every year we always see who can grow the bigger pumpkin. Some people can turn out 200 or 300 pounds."

Not that they diminish what sprouts in his garden, but Thompson humbly knows his place.