

## FROM CLERK TO COLLEAGUE

*Hon. Andrew L. Brasber\**

“What is it like to serve on a court with Chief Judge Pryor, the judge you clerked for?” I get asked some version of this question once a month. And I usually respond with something pithy: “It’s like joining a family business.” “I’ve nothing to compare it to.” “It’s more fun than being his law clerk.” Not the best answers.

My real feelings on this question are much more complicated. My clerkship with Chief Judge Pryor was almost certainly the most significant event in my professional life. It put me on the path to everything I’ve done since then, including my dream job as the solicitor general of Alabama. The significance of my clerkship is only equaled by the second part of the question—that I now work alongside Pryor as a judge on the Eleventh Circuit Court of Appeals.

I’m going to use this Essay to provide a better answer to this question. There are three things to talk about: the qualities that made Pryor a good boss when I clerked for him and make him a good chief judge today, the many ways our relationship did not change when I joined the court and a few ways in which it did, and some things I learned from Pryor that influence how I do this job.

Let’s start with the qualities that make Pryor a good boss. I clerked for Judge Pryor in his third year on the bench from 2006 to 2007, when he was the most junior member of the Eleventh Circuit. Before the clerkship started, because he had been a judge for such a short time, I mostly knew him for his work as Alabama’s attorney general and his bruising confirmation hearing.<sup>1</sup>

After starting the clerkship, I got to know him in a very different way—as a boss. I soon found out that Pryor was a skilled manager, which is unusual for lawyers and exceptional for judges. Part of his success as a manager was that he led through organization and communication, not supervision. We all knew what we were supposed to work on, we all knew our deadlines, we all knew what was next in the queue, and we all knew his expectations for quality and timeliness. But Pryor didn’t micromanage how we accomplished the work. It was the first job I had when I didn’t have a boss telling me what to do on a day-to-day basis.

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1. See *Hon. William H. Pryor Jr.*, U.S. CT. OF APPEALS FOR THE ELEVENTH CIR., <https://www.ca11.uscourts.gov/judges/hon-william-h-pryor-jr> [<https://perma.cc/JQ7D-9RB3>]; *Confirmation Hearing on the Nominations of William H. Pryor, Jr. to be Circuit Judge for the Eleventh Circuit and Diane M. Stuart to be Director, Violence Against Women Office, Department of Justice: Hearing Before the S. Comm. On the Judiciary*, 108th Cong. (June 11, 2003), <https://www.govinfo.gov/content/pkg/CHRG-108shrg91200/html/CHRG-108shrg91200.htm> [<https://perma.cc/7U5K-JRVA>].

I had also never worked for a supervisor who worked as hard as Pryor did. Pryor set aggressive internal deadlines for bench memos and draft opinions. In fact, it seems like our chambers always circulated draft opinions before the other judges on our panels—a hard thing for a junior judge with no control over writing assignments. But he never asked us to do anything that he wasn't already doing himself. For example, he usually expected us to respond to his edits on draft opinions within a day. Then, he would turn around our new draft and provide more edits within the same period. I remember thinking at the time: "I'm working hard because Judge Pryor is making me, but who is making him?"

Most surprising to me at the time, Pryor worked extremely hard on other judges' draft opinions. He made suggestions, both substantive and technical, even though he was the most junior person on the panel and would get no credit for the opinion itself. He was always concerned with the court's work product overall. And he expected his law clerks to have the same attitude toward each other that he had with his colleagues on the court—to collaborate with each other to improve the chamber's work product without caring about whose case it was.

Having joined Pryor on the court, I get to see these same qualities from a different perspective. The chief judge doesn't have the same degree of formal power over his colleagues that he has over his staff. But Pryor doesn't need it. Instead, just as when I was his law clerk, he leads by example. Because he never has a backlog, he is uniquely positioned to encourage his colleagues to get their opinions done in a timely manner. Because he is so efficient, he has the moral authority to root out waste. Because he prioritizes the good of the court over whatever might be convenient for him, I find myself trying to do the same thing.

In fact, just as when I was his law clerk, the thing that has impressed me most about Pryor as chief judge is how much he cares about the court as an institution. The public will never know how much time and energy Pryor has poured into improving the court. He is responsible for our court's post-Covid move to live-streaming oral arguments. He is responsible for a complete overhaul and update of our library system. He is responsible (along with the long-suffering members of the budget committee) for keeping our permanent staff employed during round after round of budget cuts. He will get no credit for any of this or the many other things he does behind the scenes. The main difference is that now I understand that he is the only one who is making him work so hard.

Moving on to my second thought: there's no doubt that our relationship changed when I joined the court, but the change wasn't as significant as you might think. When I was clerking for Pryor, he rarely pulled rank; he wanted our opinions and valued our input. He approached every case looking for the right answer. And, if one of us could persuade him that we had found that answer, it didn't matter that we were only twenty-five years old.

On the other hand, we were only as influential as the persuasiveness of our reasoning. He did his own research and came to his own conclusions. One of my fondest memories of my clerkship is Pryor walking into my office with one of my bench memos in his hand. He sat down in my office chair and pronounced my memo to be thorough, well written, and wrong. We debated my suggested resolution, he won, and the other members of the panel agreed with him. I worked on the opinion, and it was the highlight of my year.

Not much has changed. One of the things I enjoy most about being on the same court is that we get to work on the same cases again. When sitting on a panel or en banc, I feel like we have the same discussions that we had when I was a clerk. If he agrees with me, I feel validated. If he disagrees, then we debate until one of us convinces the other or time runs out. There's one obvious difference, of course: I get a vote now. But, in practice, it's the same process.

The most significant difference, from my perspective, is that there's a new camaraderie that comes from being judges on the same court. Because I clerked for Pryor so early in his judicial career, I got to see him learn how to be a judge at the same time I was learning how to be a lawyer. I was there for one of his first dissents and his first time presiding over a panel (the other members were senior judges). Now, he's the chief, and all that stuff is old hat. But I've spent the last three years as the most junior member of the court, and I've been going through the same firsts. The upshot is that we share many more experiences than we did before and have a deeper relationship because of it.

Lastly, I want to talk about two of the many things that I learned from Pryor that influence me in my work as a judge.

First, Pryor taught me how to write judicial opinions, and I still write them the same way. He taught me that judges write judicial opinions because it's our job to explain our decisions to the public, not as a means of self-actualization. So the writing shouldn't be Shakespeare; it should be easy to understand. An opinion starts with an introductory paragraph that presents the issue and result, so no one has to read the whole opinion to find out what it is about. Then it walks through each issue logically without extraneous facts or asides.

His law clerk manual is legendary for its "Pryor Restraints"—a list of words and phrases that he never uses. Woe to the clerk who proposes to write "prior" instead of "before" or the possessive apostrophe "s" after an inanimate object. Although I don't follow all of his rules all of the time, I use the same basic manual.

Pryor also taught me that judicial writing should be respectful. I recall a draft opinion I wrote while clerking that preserved a typo ("untied" instead of "united") in a quote of the district court's opinion. Pryor corrected it. And, in a very serious moment, he told me that district judges have a lot to do and not a lot of resources or time, so it is sometimes better to misquote another judge than to write something that might embarrass her. That stuck with me, and I

try to treat district judges and the parties in my cases with the same care in my writing.

Second, Pryor taught me how to be an active mentor to law clerks. By “active,” I mean Pryor mentors his clerks whether they like it or not. If you ask Pryor what he likes best about his job (and I have many times), he will always say that it is working with his clerks. As a law clerk, you will eat lunch with him several times a week. You will hear war stories about significant cases. You will go through fifteen drafts of an opinion. You will listen to rants about the right way to do things and the wrong way to do things. Pryor’s interest in his clerks, their careers, their families, and their ideas is both obvious and genuine.

I try to treat my law clerks the same way he does. I really don’t know any other way. Again, I do a few small things differently (I like to have lunch at different restaurants instead of the same ones every week), but the basics are just a cut-and-paste from my clerkship year.

To be clear, though, Pryor’s mentorship extended well past my clerkship. He talked me through my decision about whether to leave private practice to work at the Alabama Attorney General’s Office. And he was one of my first calls after my Supreme Court arguments to debrief on what I had done well and where I needed to improve. I called him whenever I had a career question. And, at some point, I started calling him about the idea that I might become a judge. He was always supportive, and his support gave me confidence to explore such a peculiar path. “Aim higher,” he once told me, when I suggested I might apply for a particular judicial vacancy. I’m certain that he believed in me more than I did myself.

My experience isn’t unusual, as the pages of this law review attest. Through his mentorship and support, Pryor’s clerks have exponentiated his impact on the development of the law. As of this writing, at least one Pryor clerk serves as a judge in every state in the Eleventh Circuit.<sup>2</sup> When I was going through the judicial nomination process, my DOJ vetter was a Pryor clerk. When I looked at the staffers sitting behind the Senators during my confirmation hearing, I saw a Pryor clerk. For four of the last five United States Supreme Court Terms, at least one different Pryor clerk has argued a merits case.<sup>3</sup> We are everywhere.

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2. Judges Anna Manasco of the Northern District of Alabama, Kathryn Kimball Mizelle of the Middle District of Florida, and Presiding Justice Nels S.D. Peterson of the Supreme Court of Georgia are all former clerks of Pryor. See *President Trump Announces Intent to Nominate Bradley Partner Anna Manasco to Serve as Federal Judge in Alabama*, BRADLEY (Dec. 19, 2019), <https://www.bradley.com/insights/news/2019/12/president-trump-announces-intent-to-nominate-bradley-partner-anna-manasco-to-serve-as-federal-judge> [<https://perma.cc/2GV4-384Y>]; *Federal Judge Mizelle Visits FSU Law*, FLA. STATE UNIV. COLL. OF L. (Mar. 31, 2023), <https://law.fsu.edu/press-release/federal-judge-mizelle-visits-fsu-law> [<https://perma.cc/A6RD-6SWW>]; *Presiding Justice Nels S.D. Peterson*, SUP. CT. OF GA., <https://www.gasupreme.us/court-information/biographies/justice-nels-s-d-peterson/> [<https://perma.cc/AGG3-VC63>].

3. Elbert Lin argued *Cnty. of Maui, Haw. v. Haw. Wildlife Fund*, 140 S. Ct. 1462 (2020); Taylor Meehan argued *Patel v. Garland*, 596 U.S. 328 (2022); Stephen Petranay argued *Nance v. Ward*, 597 U.S. 159 (2022); and Eddie LaCour argued *Allen v. Milligan*, 599 U.S. 1 (2023).

So, that is my best answer to the question of what it is like to serve as a judge on a court with Chief Judge Pryor. It was an honor to clerk for him, and it is an even greater honor to serve alongside him. His work as a judge is the standard by which I assess the quality of my work. And I hope to continue his legacy on our court for as long as I am able.