Rebecca Wiseman: All right. We are here in Merced, California, and I am Associate Justice Rebecca Wiseman from the Fifth District Court of Appeal. And I have the privilege today to interview one of my former colleagues, retired Justice Betty Dawson. This is part of the Appellate Legacy Project, where we are obtaining an oral history from Justice Dawson and capture her many interesting stories and life experiences for future generations. Justice Dawson, let's start with the beginning.

Betty Dawson: Okay.

Rebecca Wiseman: You were born in Minnesota. ***[with a Midwest accent]*** Minnesota. . . .

Betty Dawson: ***[with a Midwest accent]*** Minnesota. . . .

Rebecca Wiseman: And you moved to California as a child. What brought your family from Minnesota to California?

Betty Dawson: Well, okay. The reason that my parents moved us – and I was . . . I think I was two or three when we did this – the reason my parents moved us I think was for economic opportunity. My father was a truck driver in Minnesota and he and my mother operated a gas station for a while. And I think they just felt that there would be greater opportunities in the West. And it was the thing to do, then – to move west. My mother didn't much like my father's family, I think, and so she was perfectly happy to do that. And the way we got here was in a trailer. They pulled a 16-foot trailer house in the back of a . . . kind of an old clunk car, I think, over Pike's Peak and ended up in Los Angeles.

Rebecca Wiseman: Okay. Well, tell us a little bit about your parents – what they did, what their interests were.

Betty Dawson: My mother came from a socioeconomic background that was a little more elevated than my father's background. Her father had . . . did own land and grew corn and I'm assuming then soy beans, which is what they grow in Minnesota now. He was also a local fireman and drove the school bus and did that sort of thing – that was my grandfather. My father's family I don't really know a lot about. My mother worked off and on until we settled in California, at which point she began to work all the time.

Rebecca Wiseman: All right. Now, you have a sibling.

Betty Dawson: I do – my brother. His name is Robert Dawson. (I use my maiden name, though I am married and have been married for, this year, ***[emphasizes]*** 40 years.) ***[chuckles]*** But my brother is Robert Dawson; he is one of the loves of my life. He is 72 years old now, worked for the San Francisco City College District for many years as an English teacher – mostly English as a Second Language – and he also is a poet and a musician.

Rebecca Wiseman: And what sort of music is he interested in?

Betty Dawson: Well, he is quite an accomplished "early music" performer. The wind instruments. I'm not sure whether that's the right term for 3:37

Medieval and Renaissance instruments, but he plays the crumhorn and the . . . which I think is the precursor of the modern trombone. And you have a son who plays the trombone beautifully, I know that.

Rebecca Wiseman: Right.

Betty Dawson: And my brother accompanied me to Chicago to hear your son's performance, and I treasure your friendship very much.

Rebecca Wiseman: Thank you. And now, you had an interesting family life. What sort of things did you do with your family that helped shape who you are today?

Betty Dawson: You know, we talked about this earlier, and I have to say my parents did not have the best of relationships. They had much strife in their marriage over the years. So some of my childhood experiences are perhaps not particularly pleasant. But what I do remember as being positive is travel. We drove for several years running, at Christmas, back to Minnesota to see my grandparents and my mother's family. Never my father's family. But those are pleasant experiences – the family in the car, driving across country. We also camped a lot – car camping. I spent most of my childhood in Santa Rosa, which is Sonoma County. And there are these beautiful lakes in that area: Lake Berryessa, Lake Mendocino. Lake County is just above Sonoma County. We did a lot of car camping. My father fished, my mother cooked the fish. And those are really pleasant experiences. And I think the way they've affected me is to make me a real . . . a person who enjoys the out-of-doors. It's my . . . . I live outside. If I could be outside, that's where I am.

Rebecca Wiseman: If you could hold court outside, you would hold court outside.

Betty Dawson: You know, I think I did that once in the superior court in Merced when our air conditioning went out. And it was in the middle of summer, and it was cooler outside than it was inside. So that's where we went.

Rebecca Wiseman: What was it like growing up in Santa Rosa?

Betty Dawson: Santa Rosa, when I was there, was a small town. Now it's quite a chic place to live; it's part of the Bay Area. Then it was a very small town: 30,000 people. But there had been . . . . I think Sonoma County always had a moneyed class. There were beautiful old Victorian homes and the remnants of . . . . Well, there was a ***gorgeous*** courthouse. Unfortunately, it was torn down. It ***would***be one of the courthouses . . . . These days it would, I'm sure, be preserved and be one of those courthouses that the AOC and Judicial Council have published photographs of and written histories about.

Rebecca Wiseman: What about your studies? Were you a good student?

Betty Dawson: Ha! No. My brother, who I mentioned earlier, was a brilliant guy – infamous around town. He ended up going to Harvard on a scholarship. He was really quite an extraordinary student. And I don't think it was by choice; it was just by happenstance. I did not follow in his footsteps in that regard. I was the kid who liked to play on the creek. And, you 7:19

know, in those days kids could do that. We played around the neighborhood, ran around like wild Indians, and we did just fine. That was probably a politically incorrect statement. We ran around like little kids love to do. And I was not a particularly good student.

Rebecca Wiseman: What about college? Did you dream of – think about – college?

Betty Dawson: No. I . . . . My parents didn't encourage me to go to college, and I think that was just because of their background; neither of them had gone to college. Incidentally, I ended up being the first woman in my family to ***attend*** college, let alone obtain a Bachelor of Arts degree. My brother was only the second ***person*** in our family to have obtained a bachelor's degree.

Rebecca Wiseman: And you did go to college, obviously. Where did you study as an undergraduate?

Betty Dawson: Well, I did not go to college initially, out of high school. I married my high school sweetheart, who was in the Coast Guard doing his best not to be sent to Vietnam. And he was stationed in Virginia. Virginia Beach, Virginia. And I went there with him. Unfortunately, that – or fortunately, perhaps – that marriage didn't last, and I came back to California shortly . . . maybe a year later. And my brother was then living in San Francisco, so I settled in San Francisco. And I went to school part time, as I could, but slowly. I didn't get my B.A. until I was 27 years old – didn't receive my B.A. I went to college at City College in San Francisco.

And then I went to Mexico, where my then boyfriend – Robert Haden, who is now my husband – was attending a place called the University of the Americas in Cholula in the state of Puebla in the middle of Mexico. And I was there for about a year and a half; he was there for a full four and even more years, working toward a master's in Latin American history. So I had the ***wonderful*** experience of living and attending school in Mexico. Robert, my husband, and I traveled for a year. We backpacked around South America, riding third-class buses and being right down there with the poor people in South America. And poor in South America is pretty darn poor.

But I came back, and Robert had dared me to finish my B.A. and go to law school. So I did! I came back and I got my B.A. in August or July of 1975, and I entered law school two months later or a month later at Hastings in San Francisco.

Rebecca Wiseman: Okay. Well, now, when you were in South America how did you communicate?

Betty Dawson: Well, it was either talk to Robert and no one else, or learn to speak Spanish. I had been in Mexico for, as I say, I think about a year. And I had studied Spanish – had a scholarship to get Spanish. Suddenly I was becoming a better student than I had ever been as a younger child. And I could write Spanish and read Spanish but I couldn't speak it. There were too many Americans around. So when we were . . . we spent 11:13

that year in South America, it was either talk to Robert and no one else, or learn to speak. And so I learned to speak.

Rebecca Wiseman: And obviously you and Robert met and fell in love. How did you meet?

Betty Dawson: Through my brother. Robert had been . . . at age 18 was backpacking around Europe, and my brother – who had already graduated from Harvard – and his then wife were traveling around Europe. And they met. I think my brother picked Robert up as a hitchhiker and they ended up traveling around together a bit. And when I left my childhood sweetheart, my brother said, "Oh, when are you going to be here? My friend Robert Haden will be here that weekend." And that's how we met.

Rebecca Wiseman: Okay.

Betty Dawson: I was 20.

Rebecca Wiseman: So you went to law school on a dare.

Betty Dawson: On a dare from Robert. I . . . . And, you know, I didn't . . . . I had ***no*** idea what being a lawyer was . . . meant. I'd never been to a lawyer. No . . . . I don't think anyone in my family had ever visited a lawyer's office. So I had no clue what I was getting myself in for.

Rebecca Wiseman: Okay. What surprised you the most about your law school experience? You were at Hastings . . . .

Betty Dawson: I was at Hastings. And, you know, I was naïve. I did not have an idea. As I say, I didn't know what being a lawyer was, and I didn't know what being a law student was. I had no idea it would be as competitive as it was. It was different then. I think law students are coddled now, compared to the way we proceeded through law school. And I . . . . The very first day, I think there must have been some introductions or something. There were 500 people in my class, so I don't know how detailed they were. But I learned that there were people there from Harvard. And knowing my brother and his brilliance, I assumed that everyone from Harvard was equally brilliant. And I immediately became very intimidated by the whole process. And I was ***convinced*** I was going to flunk. It sounds a bit like false modesty, but that . . . I was convinced, for the first two years at least, that I was not going to make it through law school. Lots of tears. Lots of time . . . . Robert spending lots of time that first year convincing me to stay in law school. And then it turned out that I did really very well.

Rebecca Wiseman: You're being – false modesty. How well did you do?

Betty Dawson: I was Order of the Coif. I was . . . . In those days, they classified you by your test scores, and I was second. I graduated second in a class of 518 students. I won an award – the Milton D. Green Award for Civil Procedure – after my first year. And do you know, after receiving that award I still was convinced that I wasn't going to do well? I thought it was a fluke. And really, you know, I think I just never saw myself 14:21

as a student. And all of a sudden that changed. Something about the law clicked with my brain. It was a good combination.

Rebecca Wiseman: Now, you were an extern at the California Supreme Court. And you were there during a ***very*** interesting time in California's legal history. Tell us about it.

Betty Dawson: Yes. I was an extern after my second year at Hastings at the California Supreme Court. And I worked for Justice Stanley Mosk – Associate Justice Stanley Mosk – who was a wonderful, wonderful person. And I'm sure he's thought of by most legal scholars and practitioners as having been one of the greatest of the members of the Supreme Court. It was wonderful to work for him. The timing was interesting, because that summer was . . . . I think in May, probably, then-Governor Jerry Brown was called upon to appoint someone to be Chief Justice of the State of California. And everyone thought it would be Stanley Mosk. I remember being excited that I was not only going to be working at the Supreme Court, but I would be working in the Chief Justice's chambers. Well, in fact, the Governor didn't appoint Stanley Mosk but instead appointed Rose Bird – a person who was certainly less experienced than Justice Mosk, but also a person who just hadn't been on anyone's . . . at least, not ***publicly*** had she been on anyone's radar. And so Justice Mosk, of course, I'm sure was very disappointed, though he didn't let that show. His staff was extremely disappointed and ***did*** let it show.

Rebecca Wiseman: What do you remember about the time that Chief Justice Bird was there? Did some of that overlap with the time that you were there?

Betty Dawson: Yes. I was there for her . . . basically for her first three months in office. And what I remember kind of resulted in me not being surprised when she was not retained in an election a few years later. I think she served fewer than 10 years. I believe she was . . . . I think the retention election at which she was not retained occurred sometime in the early '80s. But she was her own worst enemy in a lot of ways, and I think people who knew her would agree with that. She had a central staff. The Chief Justice has a staff of . . . at that time there were several lawyers, I think probably 15 or so. Professionals who'd been there . . . many of them had been there for decades. Interestingly, a lot of them were women who had been unable to obtain jobs with firms and ended up being research attorneys. But that's another story. In any event, Justice Bird . . . . Pardon me. ***[coughing]***

David Knight: I'm going to pause the tape. . . . Now we're recording again.

Rebecca Wiseman: You mentioned Rose Bird – Chief Justice Bird – and her experience with central staff. What was that about?

Betty Dawson: Well, I don't understand why she did this, but she did not introduce herself to any member of her central staff for the first three months she was there at the court. She brought in someone who became the head attorney of the central staff, and she brought in her own personal staff. And what she should have done, in my view – and I don't think I'm alone . . . I was alone in this – she should have introduced herself and 18:33

spoken to those people who had been . . . who had spent their careers at the California Supreme Court, and made them feel secure in what was going to become of them, given her appointment and her selection as Chief Justice. In my opinion, that did not hold her in good stead with the legal profession. She seemed . . . . I'm sure she didn't do that deliberately, but she was not conscious that there was a political role she should have been playing there in the court.

Rebecca Wiseman: Okay. Now, you were a teaching fellow at Stanford Law School during the 1978–79 school year. What was that experience like?

Betty Dawson: Well, all right. I went there for my first job out of law school. Hastings, at the time that I attended, was in one building. It's currently in two or three buildings. Then we were in one building and we were ***completely*** cramped. There . . . . The classes were twice as large then as they are now, and we had only very limited space. So the facility at Stanford was a brand-new gorgeous library. The campus of the law school was part of the beautiful Stanford campus. So physically it was very different.

The students were also different. Stanford is where I encountered those Harvard students that I was so afraid of, or worried about competing with at Hastings. I taught legal writing and research as a teaching fellow to first–year students, and they were all ***so*** well educated. Many of them had been to Ivy League boarding schools and come from families that were very well educated. So it was interesting. And at Stanford the teachers took a very academic approach to teaching law – different than had been the case at Hastings in a lot of ways. Those students also were a little spoiled. At the time, my teaching fellowship paid $12,000 for a whole year. And I remember that at the end of the . . . or the beginning of the second semester was the time that first-year students at Stanford were interviewing for summer jobs for the first summer. And one of my students came to my office in tears – literally in tears – asking for advice about what I thought he should do. He was crushed because he had not been offered any job with a big firm. He had been offered a job with a medium-sized firm that was only going to pay him $300 a week. ***[laughs]*** Needless to say, I was . . . I found it difficult to be very sympathetic to this guy. But he was a good student. Incidentally, he became, later, City Attorney of one of the larger cities in California. So he did just fine.

Rebecca Wiseman: You got him off to a good start.

Betty Dawson: I did, by telling him to skedaddle out of my office because I wasn't much interested in his woe! ***[laughing]***

Rebecca Wiseman: Now, you also worked at the First District . . .

Betty Dawson: Yes.

Rebecca Wiseman: . . . Court of Appeal. Tell us about your position, who you worked with, and how that may have impacted your future career choices. 22:14

Betty Dawson: Well, in law school at Hastings I had kind of attached myself, in that I took many . . . several classes from Professor Joseph Grodin, who was a long-time labor lawyer and had pretty much given up practicing, I think, though he was doing a lot of arbitration. He was the employment law, or labor law, instructor at Hastings, and I consider that he was probably my mentor in law school. And while I was a teaching fellow, he was appointed to the First District by Jerry Brown. And I heard about this and that day immediately dashed off to Hastings. Couldn't find him, couldn't get an answer on the telephone, so I stuck a note under his office door saying something like, "If you haven't hired a research attorney yet" – or a clerk, I believe I called it – "if you haven't hired a clerk yet, will you consider me?" And he called me that night. I didn't have to go through any long interview process; he knew my work pretty well. And got the job.

So right after I finished the teaching fellowship, I started working for Joe Grodin – Justice Grodin – which I did for about a year and a half. He wanted to have a temporary . . . . He wanted a clerk, rather than a professional research attorney, which was what about half of the justices had at that time. So I worked for him. He encouraged me when I decided that I really wanted to be . . . follow in his footsteps and be an appellate justice. He encouraged me to aspire toward the judiciary. And he also encouraged me to leave San Francisco and come to Merced when my father-in-law offered to take both me and my husband on in his firm.

Rebecca Wiseman: Now, Merced is a small farming community, and it's located in the middle of the Central San Joaquin Valley. What was it like to come from San Francisco to Merced to practice with your father-in-law?

Betty Dawson: Ah. Well, when my father-in-law, Bob Haden, had offered the opportunity for both myself and for my husband to do that – we should come and work for him – he had suggested that it would be genteel poverty here in the Central Valley, which is what it turned out to be. He had a very small, low-key practice. He literally took . . . sometimes took farm animals in exchange for legal services. But it was also a wonderful place to practice law. There were some very – and still are – some very, very competent attorneys practicing here. Despite the fact that it's a small town, it has a good legal community. ***[clears throat]*** Excuse me.

And so, what was it like? You know, I was pregnant when we first arrived here and had two babies within the first two years of practicing here. So I was mostly practicing part-time. Robert, my husband, was working very hard to develop the practice into something a little bit more lucrative than had been the practice that my father-in-law had. It was a great place to practice.

Rebecca Wiseman: Well, very early in your career, you worked on several capital murder cases. Now, you're young, you have two children – two babies. How did this come about?

Betty Dawson: Well, let's see. I had . . . . While I was . . . . During those first two years, I took not several but a few appointments from the Court of Appeal, Fifth District to represent indigent criminal defendants. And the Fifth 26:34

District had included me on a list of attorneys they sent to the California Supreme Court – a list of attorneys they recommended to be appointed to do work in the Supreme Court. I was on the list. And then I heard that what the Supreme Court was really looking for was attorneys to represent people who had been convicted of capital murder and sentenced to death. Condemned men. There were only men at that time, I think. And in my naïveté, I thought, "Well, I can handle that." ***[chuckles]*** The pay was a little better than the Fifth District. And so I contacted my former boss, Joe Grodin – Associate Justice Joe Grodin – who then, by that time, had been elevated to the California Supreme Court. And he gave me a recommendation, and naturally with his recommendation I was offered a case. You know, today there is no way that a lawyer with that little experience that I had would be appointed for a capital case. But then things were different, and I took it. I had the case for 10 years until I joined the Merced Superior Court as a commissioner. And that case kind of led to me being appointed – always appointed – in other murder cases. Two capital murder cases at the trial level, which I did with my father-in-law. And I'm not sure that the judges who appointed us knew how much the case would depend on ***my*** work. My father-in-law was getting old, and so those cases really ended up, to a large extent, being my responsibility.

Rebecca Wiseman: And you conducted your first jury trial in a capital murder case?

Betty Dawson: Yes, actually. My ***only*** jury trial as a lawyer was a capital murder case. And we won the case, to my mind, before trial started because we convinced the District Attorney not to seek the death penalty. That District Attorney was Frank Dougherty, who later became important in that he gave me my first job on the superior court as a referee.

Rebecca Wiseman: Well, let's talk a little bit about that first judicial position. First of all, tell us what you did as a referee, and also tell us a little bit about going through the judicial application process.

Betty Dawson: Ah. Well, let's see. It was a process that went on and on. Actually, I had . . . . You know, I knew I wanted to be an appellate justice someday, so I had applied for some commissioner positions – one with the juvenile court here in Merced. The judge who made that decision told me that I wasn't going to get the job because I had children at home to take care of. ***[laughs]*** And despite that discouragement, I applied for several – actually, three – federal magistrate jobs. I almost got the job with . . . as magistrate in Yosemite, except . . . . I was on the final five interviewed. What I didn't know was that the person who ended up getting the job probably had it all along. And justifiably so – it was Hollis Best, a very, very accomplished jurist and previously a very accomplished lawyer. He got the job. But I was close. I was disappointed. Then eventually the traffic referee in Merced, who was not a lawyer – he was a former justice of the peace who had been kind of grandfathered into this position – became ill. And they needed a traffic referee right away. And Frank Dougherty called me up and said, "Can you do this?" And I did. It was initially temporary and part time, but the former justice of the peace never came back to work, and I ended 31:16

up there. After a couple of years my title was changed to commissioner, and I served as a subordinate judicial officer for eight years.

Rebecca Wiseman: Now, you didn't spend that entire time in traffic?

Betty Dawson: No! You know, the courts have gone back and forth on how they should view the use of subordinate judicial officers, and I'm sure various courts do it differently. In Merced, largely at the lead of Frank Dougherty, I was used – and there was another commissioner also – we were used as judges. There had to be a stipulation, but after some initial hesitancy by lawyers from both the . . . both sides of the criminal fence, anyway, after they became used to the idea, stipulations were not a problem. So during those eight years, I would say that six of them were spent doing the work fully of a municipal court and then a superior court judge.

Rebecca Wiseman: What was your next judicial position after the commissioner position?

Betty Dawson: Ah. In 2000, Gray Davis appointed me to the superior court. And, you know, this always happened to me; I always ended up with the biggest and best "first." So the first case I had as a superior court judge, the day after I was sworn in, was a month-long jury trial – a personal injury case in which the lawyers were superb. It was the best experience I had in my three years on the superior court in handling a jury trial. They were talented, and it was just a great experience. Our colleague Dennis Cornell pointed out to me that it was all downhill after that. And he was right. ***[both laugh]***

Rebecca Wiseman: Well, we've been talking about your professional life. Let's take a diversion for a moment before we . . .

Betty Dawson: Okay.

Rebecca Wiseman: . . . go back to that and talk about your family life. You've mentioned that you and Robert have children. Tell us about them and what impact, if any, do you think your judicial experience had on your children and how you raised them.

Betty Dawson: You know, I . . . we have two daughters. My husband, Robert, is an attorney. He started practicing in 1980 here in Merced. He was right out of law school; he was two years behind me in law school. Our . . . . He was the sixth generation in his family to become a lawyer. And our oldest daughter followed in those footsteps and became the seventh generation. And I think she did that because of what she saw ***me*** doing. I think she became interested in the law by hearing the stories I had to tell about cases that I heard from the bench, and as a lawyer previous to that. Our younger daughter, I think, went the exact opposite direction and avoided doing anything that would even get close to being what her mother did or what her sister strived to do. The thing about being on the bench – and I'm sure, Justice Wiseman, you remember this from your years – you see . . . particularly in municipal court work, you see a lot of people – and this would be misdemeanor work now – you see a lot of people who are there in the system, caught in the system, just because they didn't take care of business. They just didn't pay their bill, 35:14

didn't pay their traffic fine, or just failed to take care of themselves in one way or another. And so I think seeing that, day after day, made it tough for my kids. I think I was pretty hard on them because of seeing what would happen if they didn't learn to take care of business.

Rebecca Wiseman: And what is the interest of your younger daughter?

Betty Dawson: She's an artist. She's a ceramic artist. Just finished her Master's of Fine Arts at a very famous school for ceramists. And she's, I hope, going to be successful in her endeavor.

Rebecca Wiseman: What about mentors? I think Joe . . . Justice Grodin would probably come to mind. Any other mentors?

Betty Dawson: Well, Frank Dougherty was certainly important in my career. He . . . you know, he and I knew each other because of the capital murder case that I tried. He was the district attorney in that case whom my father-in-law and I convinced not to seek the death penalty at the last minute. And apparently he'd been sufficiently impressed with my work to believe that I would be a good addition to the court. So he gave me the first job. And then he encouraged me, and he encouraged acceptance by the legal community because of the need for stipulations. He had to do that, and he used my services as a full . . . as basically a full judge. So that really was a good thing.

Rebecca Wiseman: All right. Now, when did you decide to put pen to paper and actually apply for a position as an appellate court justice on the Fifth District Court of Appeal?

Betty Dawson: Well, an opening happened, and it had been vacant for over a year – an opening on the Fifth. And I'd only been on the superior court for three years – or less . . . fewer than three years at that time. But I decided to go ahead and do it. I had great credentials for the appellate court. I'd been an appellate lawyer, I'd handled complex appeals, I'd been a research attorney. So I just threw my hat in the ring. And it wasn't easy, incidentally.

Rebecca Wiseman: How did you approach the application process?

Betty Dawson: Well, I filed my application, which takes forever. Anyone who does that knows that's an arduous process. I also sought help from a local politician, Dennis Cardoza, who was then an assemblyman and later became a member of the House of Representatives. And I approached the community of women lawyers in this area. Fresno County Women Lawyers Association was very helpful. The California Women Lawyers Association has a process by which they vet female applicants; I sought their help. I think I sought your help, and you gave me a letter of recommendation. And I had so many people recruited to support me that Burt Pines, who was the Appointments Secretary, said . . . told me after the process was finished and I was an associate justice, he told me that he'd grown so tired of answering his telephone only to have someone say "Select Betty Dawson" that he just had to do it. There was no choice. 39:13

Rebecca Wiseman: Now, when were you appointed to the Court of Appeal?

Betty Dawson: In 2003. And this was just before Gray Davis was subjected to the election – and I don't recall now what they called the election when he was . . . .

Rebecca Wiseman: The recall?

Betty Dawson: The recall election. I was not a post-election appointment; in other words, he selected me before the recall election occurred. There were a few people he . . . were appointed by Gray Davis between the time he lost the recall election and the end of the year, when he actually left office.

Rebecca Wiseman: How did you find out that you got the appointment?

Betty Dawson: ***[chuckles]*** Robert . . . . My husband, Robert, and I were driving to Monterey; we were going to spend the weekend there. And my telephone rang, it was Burt Pines, and of course immediately I knew that my lifelong dream really was going to come true.

Rebecca Wiseman: Now, you served as one of 10 justices on the Court of Appeal from September 2003 through May 2011. Was the job everything that you hoped it would be?

Betty Dawson: You know, it was ***everything*** And I had a pretty good idea of what I was getting into. And I . . . it was just the dream of my life to be there and it turned out to be everything I wanted it to be. The only thing that could have been better was to have a few more interesting civil cases. You know, the valley – the jurisdiction of the Fifth District – is probably not the place for the ***most*** interesting civil cases, although there are a lot of CEQA cases, which are very interesting. But yes, great job, I loved every minute of it.

Rebecca Wiseman: You did manage to get some interesting cases under your belt.

Betty Dawson: Mm hmm.

Rebecca Wiseman: While a member of the Fifth District Court of Appeal, you authored 71 opinions covering many significant legal issues. And of those 71 opinions, 14 related to the California Environmental Quality Act, or CEQA.

Betty Dawson: Mm hmm.

Rebecca Wiseman: Of course, you've authored and co-authored hundreds of nonpublished cases. But let's start with civil cases. Are there any cases in particular that stand out to you, and if so, why?

Betty Dawson: What really stands out to me is that because of the number of CEQA cases that I was assigned to handle, I really had the opportunity to have an impact on the law – to help develop CEQA law. 42:09

I had some individually very interesting cases. One involved the question of historicity and what the standard of review would be for that. Another involved the . . . in lieu of . . . let's see, how can I explain this? The fees that are imposed by most communities in California for the . . . on developers for the construction of, or the substitution of a fee for the construction of, low-income housing. And I was able to help clarify what standard would apply to determine whether the fee was fee-imposed or the in-lieu fee was reasonable.

The Walmart case was ***very*** controversial, as were both the historicity case and the case involving impact fees. The Walmart case ended up going to the Supreme Court. Well, it didn't . . . . It . . . . I was affirmed. And there were many CEQA issues in that case. But the important part of the case turned out to be the question whether communities can act in a way that impacts economic competition in order to preserve the community in which . . . in the way in which the decision makers there feel is appropriate, to avoid blight. The Walmart case that I worked on involved the question whether big-box stores could be . . . could include grocery stores, grocery departments. Big-box stores of a certain size. And the City Council had enacted an ordinance saying that there were limits in that regard. And what they didn't want was competition with smaller grocery stores that served as the magnets for the magnet stores in smaller shopping centers. They were kind of using the "village" concept of city planning. And their approach was to protect those smaller grocery stores. And I said that that was a valid exercise of the police power. The Supreme Court later granted review, not in my case – not in the Walmart case; they denied review there – but they granted review in a case stemming from the Fifth. A colleague of ours wrote an opinion which was decided on equal protection grounds, actually, but the Supreme Court took it over and went even further and said – more straightforwardly, perhaps, than I had done – that economic competition ***could***be subjected to the police power in order to promote land planning . . . city planning objectives.

Rebecca Wiseman: Now, what about criminal cases? Are there any cases in the criminal context that stand out to you, and if so, why?

Betty Dawson: You know, we have . . . it's such a large percentage of our caseload in the Fifth, and I'm sure statewide it's a very large percentage of all Courts of Appeal's caseload. But in the Fifth District, we not only get the general load of criminal conviction cases, we also get the prisoner petitions because there are so many prisons in the Central Valley. And so two cases that I handled stick out in my mind. And those both involved the validation of prisoners as members of prison gangs. One of them I used a standard analysis. There need be only what is called "some evidence" – which is really a very . . . can be a pretty small amount of evidence – some evidence to support a validation decision by the Department of Corrections as sufficient. I applied that standard and upheld a validation based on literature that was in the . . . found in the prisoner's cell and, in addition, contact information – contact information relating to a senior member of a prison gang. I upheld that one. There was a lot of criticism of my opinion from the defense community – the prison law office 47:15

attorneys, I think, were critical of the opinion. Certainly in the prisoner newsletters there was a lot of criticism.

In the next case, there was less evidence. There were just some drawings, photocopied, essentially, from the ***Easy Rider*** magazine, which is a magazine that's kind of ubiquitous in the prison system in California. And after a lengthy and detailed analysis, I held that that was not enough. The California Supreme Court granted review and reversed me in that regard. But I understand that there currently is federal litigation going on over the methods used for validation. And, in fact, Magistrate Claudia Wilken from the Bay Area just denied a summary judgment motion filed by the Department of Corrections regarding an assertion that the validation and the subsequent conditions of incarceration constitute cruel and unusual punishment. And it'll be interesting to watch those cases. The . . . . What happens to someone who's validated is indeed very draconian. They are in . . . essentially in solitary confinement and in fact there is a person in the California Department of Justice system who has been in solitary confinement for more than 20 years.

Rebecca Wiseman: What do you think about separate opinions? And by "separate opinions," what I'm talking about is where a justice writes either a concurring opinion or a dissenting opinion.

Betty Dawson: You know, I think it's very important to work toward a collegial atmosphere on the court. What we want to do is produce opinions that are clear and understandable, so that overworked superior court judges and overworked lawyers can read them and know what the law is. And so if it's not necessary – if I have something additional to say, but it's not necessary to the opinion – I think the . . . a concurring opinion is usually not the way to go. Dissenting opinions, certainly if you can't agree, then you have to dissent. And I did that, and I'm proud to say that in the majority of my dissents – which I think may have been . . . I think there may have been eight dissents and . . . I don't remember the numbers – but in the majority of the dissents, review was granted and I was upheld by the Supreme Court. So I'm very proud of that. But in general, I think it's better to try to work with your colleagues and find common ground on which to base your decision.

Rebecca Wiseman: Well, that brings to mind the notion of judicial philosophy. How, if at all, has your judicial philosophy evolved over time?

Betty Dawson: Well, you know, I don't think I . . . . I don't have a formal philosophy of judging. I'm not a strict constructionist, I'm not an originalist. But I think what I'd like to say about that is that I do, in my decision making . . . . Well, I'll start with this premise. I do not consider myself to be result oriented. I avoid being result oriented and I think all judges should avoid being result oriented. But that doesn't mean that I am going to sublimate my perspective of the world and how it should be in making my decisions. I've heard a lot of talk about judges having to be totally unbiased, and of course they have to be totally unbiased. But that does not mean that they have to be automatons. Judges are appointed because they're qualified – because someone in power thinks that they are good candidates to be part of the rule of law. I think it's our 51:57

job to let our view of the world dictate how we apply the law. I don't think the law is either black or white; I think most cases involve a judge's perspective. So maybe I'm an activist. That might be it. I guess you could call it that. Again, I want to distinguish being result oriented from what I'm trying to describe. I think it's disingenuous, perhaps, to suggest that judges don't apply their perspective of the world in making their decisions.

Rebecca Wiseman: What challenges do you think the judicial system faces today?

Betty Dawson: Money, money, and more money. It's just terrible, what's happening with the lack of funding to the superior courts, the trial courts. They're so impacted. When I was there until 2003, we had certainly more money than they do now, and more funding, and it was still just a daily struggle to keep up with the caseload. And so I don't know how they're doing it now.

Rebecca Wiseman: What advice would you give to someone who came to you and was asking whether he or she should enter into a legal career as an attorney?

Betty Dawson: Oh, you know, I think it's the best . . . I think being a lawyer is the best thing in the world. Going to law school, you learn how to think, you learn how to write, you learn how to think critically. Even if you don't want to be a lawyer, going to law school is quite an educational experience. You . . . . Just reading cases, you learn things about the subject matter of the cases that's very instructive.

Rebecca Wiseman: And let's just change that question a little bit. What if an attorney came to you and wanted to seek your counsel about a career as a judicial officer. What would you say?

Betty Dawson: ***[chuckles]*** I know exactly what I'd tell them, because that happens often. I tell them to start building their application right away because I don't know whether you or remember or not, but probably you do, that application is a bear to handle. So start making notes right away about the cases that ***you*** handle and the attorneys who were involved and what the cases were about so that you can fill out that application someday. And of course I tell them that it's not all glory. It's not just being called "Your Honor." It's hard work. And that they have to be willing to give up the position of an advocate, and . . . .

Rebecca Wiseman: Do you think everyone is able to do that?

Betty Dawson: No. Absolutely not. I think it's a . . . . Some people love being an advocate, and I don't think they . . . . Though they may think that they can promote their view by being a judge, I don't . . . . I take that back. I don't think people really think that; I think they understand they have to be unbiased and . . . well, unbiased. But they have to be patient also, and polite, and some people just aren't qualified to do that job. ***[chuckles]***

Rebecca Wiseman: If you had it to do all over again, could turn back the clock, is there anything that you would do differently? 56:08

Betty Dawson: I've thought about this. In preparation for this interview, I've thought about what I would do differently. And my career was perfect. I had the best . . . I think the best training to end up an appellate justice because not only did I have all of the appellate experience, but I had the experience of going through the steps of being a trial judge. Started out as a traffic referee, moved on to misdemeanor cases and all the way up to the superior court cases, and I was the presiding judge of the superior court. So I think all those things . . . . I wouldn't change any part of the process.

You asked earlier about concurring and dissenting opinions. I think the one thing that I might change is that I might use what was called in an opinion written in connection with Anthony . . . Justice Anthony Kline's case in which he was accused of misconduct for writing a dissent in which he said that he would not follow California Supreme Court precedent – there is mention of what they called a "critical concurrence." And I might be inclined to use such a vehicle on a very limited basis to register my disagreement with a particular aspect of the law. And I'm particularly thinking of one thing, and that's the Three Strikes law, which I felt critical of in many situations. I applied it, I had to apply it, I did not like it in most . . . not most, but some, of the cases in which I had to apply it. And I think maybe, you know, judges are selected because of their knowledge and their qualifications; they're a part of the rule of law that makes this . . . the U.S. a great country. Well, I think we have a duty, perhaps, even to state what we think about some aspect of the law that we think is ill-considered, particularly when it relates to something that is so close to the judiciary as is sentencing – criminal sentencing. That's a judicial function. And when the Legislature has interfered with that function to the extent it did – or the voters, I guess, also, in the Three Strikes law – then I think perhaps it is our duty to at least examine whether we ought to not state that for public consumption. Otherwise, I can't think of anything I would have changed.

Rebecca Wiseman: That's a very enviable position, and you have a career to be proud of. And I know you are, and your family is, and we are all so honored to have had the opportunity to serve with you, Betty.

Betty Dawson: Thank you very much, Becky.

Duration: 60 minutes
April 30, 2013