George Nicholson: Welcome to the Robing Room – the Presiding Justice James A. Ardaiz Robing Room of the Court Of Appeal, Fifth Appellate District. We are here with retired Presiding Justice James A. Ardaiz, the man who . . . for whom this room is named and the man who designed not only the courtroom – working with architects, and built it out – but the courthouse as well, as we're going to learn. Jim was the . . . was on this court and served as the presiding justice for a good fraction of it – 17 years – but 20 years in all. I'm George Nicholson, Justice of the Court of Appeal, Third Appellate District, and I had the pleasure of serving with Justice Ardaiz and being close friends – dear friends, I would say – for the 20 years or so on the Court of Appeal. And we're just up the road on Highway 99 – the Third Appellate District – in the state capital. Before that, we served together as trial judges, essentially, and even before that I knew of you. I doubt if you knew of me, but I certainly knew of you. This has been a long time coming, Jim, and I've looked forward to it.

As part of the Judicial Council's Appellate Court Legacy Project, we are videorecording, transcribing, and compiling historical accounts of the lives and experiences of retired justices, which now include you. And what I do when I do these interviews is we go through your life and times, but I begin by describing you in a nutshell, as I've gleaned from talking to your colleagues: two Chief Justices, justices you've worked with, judges, and the lawyers who have appeared before you. And this is the way, synthesizing all of that into a modest-length paragraph.

You were Presiding Justice of the Fifth Appellate District of the state Court of Appeal until you retired. Your new book will be out in December; it is a tale of one of the most sinister mass murders imaginable. You are again a practicing lawyer. You were a great prosecutor, judge, justice, and law professor. You are a skilled lawyer, compelling writer, inspiring artist, and a very able amateur architect. You wrote the three-strikes initiative that voters adopted overwhelmingly in 1994, and the California Supreme Court and United [States] Supreme Court upheld as written. But now, unfortunately, as we'll get to, it's in some jeopardy under Proposition 36, which is on the ballot in a few weeks. You conceived and oversaw, as I noted, from the beginning to the end of construction, the distinctive new appellate courthouse – the one in which we're sitting – here in Fresno. You read widely, you travel a great deal. You are a born leader, you're very smart, you're tough, you're demanding – very demanding at times – of excellence in those who appear before you. You're poised, well spoken. In addition, your suits don't wrinkle and your shoes always shine. You are a throwback to the age of gentility in our culture and in our profession. You are a modern-day man for all seasons.

That's the way I see you, Jim, and that's the way your colleagues see you. And I think that's probably the way anyone who knows you sees you. You've been very active and able throughout your life, Jim, and we're looking forward to memorializing some of it today. And there's only one limitation in what we're going to do today, and that is, you're so much larger than life, we're not going to be able to spend all the time on it we might wish. 4:44

But before we begin, I want to set the tone for you and your view of the law, your view of the court, and your view of the context within which you were practicing. So let's begin with the Bernard E. . . . the James A. Ardaiz Reading Room, with Bernard Witkin staring over your shoulder. And before we move on to the rest, explain why Bernard Witkin is here and how that particular bust got here.

James Ardaiz: Well, I think any lawyer in California probably has volumes with Bernie Witkin's name on them on the library shelf, and every judge in California has that. We were very fortunate – and I certainly was as a young lawyer – to have the opportunity to become friends with Bernie Witkin. And he became an informal mentor to me and actually was very encouraging in my early career. He's important to this legal community; our highest award is named for Bernie Witkin. And so we wanted to put something in the courthouse that reminded us of one of the towering legal figures in this country, and that was Bernie. And so we had this bust made – there is an original; this is a casting from that – and put in here to remind us of a man who not only was an incredible intellect but a modest and incredibly congenial man. And that's what we want to represent.

George Nicholson: Going beyond Bernie and your architectural design, over my right shoulder – your left – are the photographs of all the justices who served on this court from the beginning until the present. Why are those photographs in this room?

James Ardaiz: You know, this room is very important to me, and when I retired, the judges did something that was overwhelming to me in naming this room for me. But this room is the place that we come before we go on the bench and, as you know, the place where we make decisions. And there's a great deal that happens in the informal discussion before you go on the bench and when you come off, and sometimes there is significant disagreement. I wanted it to be a contemplative atmosphere. I wanted it to be a gathering place for judges. I wanted it to be a place where they could talk. But I also wanted it to be a place where they were reminded of what they stand for and what it means to be a justice of the Court of Appeal. And having the photographs of the incredibly distinguished judges that have preceded each of us, seeing them as we walk into . . . onto the bench, their eyes following us, I thought was very important, symbolic. To remind us that these people had a tradition – a tradition of excellence, a tradition of distinction – and they are looking at us and they expect us to do the same. And that was very important to me. So that's why we had the pictures here, and I think each of us is reminded of that. When judges first come on to the Court of Appeal, that's the thing that impresses them when they walk in and they realize who's looking at them.

George Nicholson: When you were designing the building, and this robing room and the courtroom itself – we'll get into that in more detail later – would you describe the entrance and its relation to the courtroom itself, and what it was you had in mind as you conceived of it and worked with the architects to design it to portray whatever it was you wanted to portray to the public and to reduce to a permanent edifice dedicated to law. 8:56

James Ardaiz: It's very important to me that the process of justice be open to the public and that they have confidence in it. I don't believe that a system of justice can be successful unless it has trust and credibility. And I wanted the court to be perceived by the public as a place where justice was done, where their disputes were resolved, but nothing was in secret – it was accessible. So in thinking about that, I wanted to design a courthouse so that somebody standing out looking into the courthouse would be able to look through the glass of the front, through the glass doors of the courtroom, and see the center seat of the Court of Appeal – the highest court in central California – and know that those doors were open to the public and this building was open to the public. We don't hide anything. And to have, over the transom, "Equal Justice Under Law." So that when you looked in, you saw the highest court in central California, you saw the center seat, and you saw "Equal Justice Under Law" framing that. That's what I wanted to accomplish.

George Nicholson: The California Court of Appeal is a statewide organization. It has six districts. Some districts have divisions; you don't. Your court is the court into which nine counties and their superior courts effectively are feeder courts. They are the place that those courts and the litigants in those courts look for their appeals. It's important for that openness you're describing to be . . . to the institutional participants as well. What did you do at the entrance to create the welcoming or receptive or open and transparent feeling for your institutional partners – your superior courts in your nine counties?

James Ardaiz: Well, inset into the floor in the foyer outside the courtroom are the nine steel-engraved seals of the counties. And they're set in kind of an oval pattern, with the Great Seal of the State of California in the center. So in doing that we were trying to say, "These are the courts that we serve" and, in a larger sense, "This is the district that we serve." So natural elements were used, and when you walked into the courtroom, I wanted the courtroom to reflect our community. And so when you . . . . We encompass, I think . . . . Some of the greatest natural wonders in the world are in the Fifth District. I mean, I would always hear judges say, you know, "Well, we've got Disneyland," and I would say, "And I've got Yosemite. And I've got Sequoia. And I've got Kings Canyon." The . . . . I wanted a person to sit in the courtroom and have a sense of what it would be like to look out the windows of Yosemite, to look out the windows and see Kings Canyon. And I couldn't put a Giant Sequoia there. At least, there may be a Sequoia growing in there but I'll never see it get to be the size that they are. And so you look out the windows, you see a meadow like you would see in Kings Canyon, you see a granite waterfall on a much smaller scale than you would see in Yosemite, and you see the granite walls along the back of the courtroom. And I think a lot of lawyers come in and they say, "You know, it's so overpowering in terms of its presence that I forget I'm in a courtroom." And frankly, that was what I wanted to do. I didn't think about it being an overpowering presence, but I wanted it to be a place where when people walked in they knew they were in a courtroom but they knew that they were in a special place. 13:21

George Nicholson: Well, we'll come back to this courtroom and this courthouse in a few minutes. But I have one last opening thought to frame what we talk about hereafter. How many members are there on this court now?

James Ardaiz: There are 10 judges on this court.

George Nicholson: And while you were Presiding Justice, you participated in a process we'll talk about more later whereby the justices that come to the Court of Appeal are nominated by governors, they're investigated by the bar, and they're confirmed by the Commission on Judicial Appointments. As Presiding Justice of this nine-county district, you would occasionally sit on such proceedings with the Chief Justice and the Attorney General. How many justices are sitting on this court now?

James Ardaiz: Well, we just had one that retired, but there are 10.

George Nicholson: Okay. But as to all of them that are sitting, did you participate in the Commission proceedings on them?

James Ardaiz: I participated in the Commission vote on every single justice sitting on this court.

George Nicholson: So as you retired, you retired from a building you built, and you left a court that you played a direct role in cobbling.

James Ardaiz: Yeah.

George Nicholson: Let's get to the chronology now. And this part, to a lot of people, is of lesser significance than the cases and whatnot. But the way I like to do these interviews is to deal with you as a man and a jurist in a more global, a more spiritual perspective. I say that because, Jim, all of your cases that we're going to outline in a way that might surprise you a little later, all of your cases of the most notable consequence are in the law books, so that scholars – and that's what these films, these videos, are designed for – can take the videotape and mesh it with your cases and do their own work and get the job done in identifying and cobbling and crafting a literary picture of you, perhaps, in the way that you literarily cobble and craft your novels and your nonfiction.

So when and where were you born, Jim?

James Ardaiz: I was born Christmas Day 1947 in Fort Wayne, Indiana.

George Nicholson: I should have known. ***[both laugh]*** What did your father do?

James Ardaiz: Well, both my father and my mother were military officers. They married at the end of World War II. My father was an infantry officer in the Aleutians. My mother was a front-line field nurse in the South Pacific. And the . . . . You know, like most military people at the end of the war, they rebuild their lives. And so my father, who was from California, came back to California, got a job here in California. My mother, who was pregnant with me, was home with her family, and so I was basically born in Indiana because that's where her family was. And then they 16:46

took me out here to California, and I've been in California since I was six months old.

George Nicholson: Did you have any brothers and sisters?

James Ardaiz: I have one sister, Cathy.

George Nicholson: Is she anywhere near you? Do you see her . . . .

James Ardaiz: No, she lives back East. You know, we talk and get a chance to see each other once in a while, but it's, you know, like anything else, . . .

George Nicholson: Yeah.

James Ardaiz: . . . a lot of space separates us.

George Nicholson: Where'd you go to school? Not college, but where'd you go to school? Here in Fresno?

James Ardaiz: I went to school here in Fresno. I went to local grammar schools, then I went to Fresno High School and graduated in 1966.

George Nicholson: Were you involved in any extracurricular activities?

James Ardaiz: ***[laughs]***

George Nicholson: I shouldn't have asked that.

James Ardaiz: No, I was going to say, other than monkey business. No, I was primarily fairly academic, and you know, things were a little different then. I mean, I was not big enough . . . . I didn't start to grow until I was a senior in high school. It always surprises people when they see me now. Of course, I've expanded a little bit, you know, width-wise, but height-wise I didn't really start to grow until my junior . . . between my junior and senior years. So I was too small to play football, and I was ***definitely*** too small to play basketball. And that assumes that I had the skills to bring anything to those teams anyway. So, no, I pretty much didn't get into things until I was in college.

George Nicholson: You scared me for a moment when you used the phrase "monkey business." One of your colleagues, Art Scotland, definitely engaged in monkey business in high school. Did you like school?

James Ardaiz: I enjoyed school. You know, I guess the easiest thing to say is I had to work most of the time. I was working when I was in high school and then worked full time when I was in college because I was raised by a single mom. My parents' marriage collapsed very early; I was a small boy. And so there were just a lot of commitments, you know. It was kind of . . . . My mother was very structured, and her approach to things were that you were expected to do what you were expected to do. And if you had time left over, well, then, that was fine. So I was taught not to waste time, and to use my time well. And so I worked and I went to school. 19:31

George Nicholson: It seems to have been a worthwhile formula your mother imposed on the family.

James Ardaiz: Well, I probably appreciate it more now than I did then. ***[laughs]***

George Nicholson: Were there any teachers in high school you particularly liked?

James Ardaiz: Yeah, I had teachers that stood out – teachers that took an interest in me. I had an English teacher . . . two English teachers that actually took a great deal of interest in me. And I still have the book that one gave to me inscribed. It was ***Madame***Bovary by Flaubert. And so, you know, teachers . . . . I think teachers saw something in me. They encouraged me. I had wonderful government teachers: Mr. Hampton and my English teacher Mr. Carey and Mrs. Williams. They were tremendous. They were supportive of me.

George Nicholson: It's interesting that you focused on them and English, given, as we will find out, the nature of your undergraduate degree. What did you want to do when you got out of high school?

James Ardaiz: Well, that's an interesting question. I think the answer is that I wanted to go to college. You know, it was a little bit different time. It was a long time ago. 1966, we were just entering heavily into Vietnam. Young men were getting out of high school and either getting drafted or getting deferments going to college. It didn't occur to me ***not*** to go to college. I wanted to go to UCLA. I got into UCLA and it was going to cost $3,200 a year to go to UCLA. Well, I didn't have $3,200. So I decided . . . I turned down my admission to UCLA and I went to Fresno State, which cost $50 a semester, and I was able to work and handle that. And, you know, I was going to go my ***second*** year to UCLA, and then I met the woman that I ultimately married and, you know, that changed everything. But my plan was to go to medical school. And, you know, I got a little burned out on school. I was working literally 40 hours a week and going to school and taking science classes. And, you know, I just didn't have the commitment, to be honest with you. So I decided, "You know, I like to talk, I like to think, I don't want to be a teacher, I'll be a lawyer." I didn't really know any lawyers. So that's what set me on that course.

George Nicholson: Well, you ended up gong to Cal State. Did you go right out of high school, or was there . . . ?

James Ardaiz: I went out . . . straight out of high school to Fresno State and worked as a janitor.

George Nicholson: That's interesting. One of my best friends was a janitor in the very courthouse in which he was ultimately sworn in as a judge. I hadn't met another janitor other than Joe Carson, who I served with for a very long time.

James Ardaiz: I learned a lot of very useful skills as a janitor – probably to many people more useful than the skills I learned as a lawyer! ***[laughs]*** 22:57

George Nicholson: Some people would say that about us. While you were at Cal State – Fresno State, as I guess it was called at the time – it was, as you indicated, $50 a semester. I went . . . . Before you, I went about the same time but earlier, and I went in Hayward and we were blessed with those kinds of costs. But the kids today getting out of law school and coming into the practice, how do you view that contrast?

James Ardaiz: You know, I think it's a terrible thing that kids are saddled with the kind of debt that they have now. I'm blessed that I never had to confront that. I mean, when I graduated from law school, my wife and I didn't have any money but we didn't owe anything. I made enough money . . . . I could actually make enough money working during the summer to pay my tuition, and we got enough money for birthdays and Christmas to pay for the books. So we didn't ***have*** a lot, but we didn't owe anything. And you just can't do that now. And I think it's really a sad commentary that kids go to school and graduate with so much debt that it impacts and affects the decisions that they have to make. I mean, I'm not suggesting they shouldn't have to work; I'm just saying that it's unfortunate that they have to confront such huge debt. I have no concept of what I would do.

George Nicholson: Well, taking into account the working, both you and I worked. Both of us lived pretty much the existence you described. But both survived it and had the opportunity to become prosecutors, really. And the kids that carry these kinds of debts in many instances can't even choose their own career path in the law; they've got to take one that gives them the money.

James Ardaiz: Right.

George Nicholson: And coming from where we did – you and I and others of our generation – we couldn't have gone to college and law school in all likelihood in many instances but for the fact of those low costs . . .

James Ardaiz: I had to . . . .

George Nicholson: . . . and working at the same time.

James Ardaiz: Yeah, there's no question. I mean, public school education was a salvation to me.

George Nicholson: Yeah.

James Ardaiz: Went on to Hastings, University of California, and I would never have been able to afford or confront the costs of private schools. I mean, you could get scholarships, but still . . . .

George Nicholson: Maybe you couldn't . . .

James Ardaiz: Yeah.

George Nicholson: . . . in a given case. 25:32

James Ardaiz: So I'm very grateful for my public education.

George Nicholson: Real quickly, as to CSU Fresno, was there one or two particularly influential professors like the two English professors in high school?

James Ardaiz: You know, no particular professor stands out. I had professors that would comment on my writing skills and encourage me to pursue those skills. I didn't give it a lot of thought at the time. Looking back on it now, I realize that they saw something that was maybe a little different than how I perceived myself. I mean, for me, school was a process. I worked. I went to school in the morning until twelve, then I went to work at twelve-thirty and I got off at nine, I went and visited my girlfriend, I studied a little bit, and I got up in the morning and I did it all over again. So, you know, it wasn't . . . . I'm not saying I didn't have fun on the weekends, but, you know, it was not . . . it was a job.

George Nicholson: Yeah. The whole process.

James Ardaiz: The whole process was a job.

George Nicholson: Yeah. Well, you indicated that during the course of that process – the college process – you decided against medical school and instead on law school. How did you either . . . how did you focus on, settle on, whatever the process, to get into Hastings, and how did you handle that particular three years?

James Ardaiz: You know, I've described my life to people, they always ask me if I planned everything out. And my answer is, "I wish I could say that I planned everything out." But I've been like one of those people that, you know, that walks from pothole to pothole, falling in and striking oil. I picked Hastings, it was real simple. I don't think I've ever said this to anybody. My wife had a brother; he was the first real lawyer that I knew. I was planning to go to law school. Where did ***he*** go to law school? Well, he went to Hastings. It seemed like a good idea to me, looked into it, great school, so I went to Hastings. I didn't give a lot of thought to what would happen if I ***wasn't*** going to Hastings because honestly it never occurred to me. I got into Hastings.

I did have a . . . . The place where I worked was a hospital, and one of the administrators at the hospital was a nun: Sister Beverly Ann. And Sister Beverly Ann would come and talk to me every night and take me under her wing when I was working, sweeping. And she was convinced that I needed to have a Jesuit law school education, and I wasn't applying to any Jesuit schools. Well, for one thing, I couldn't afford 'em. And so Sister Beverly Ann took it upon herself to call the Dean of USF, and she got me admitted to University of San Francisco Law School on her own hook ***[chuckling]*** convinced that I would eventually see the light and go to the Jesuit school. I disappointed her greatly. But that's what happened.

George Nicholson: What was . . . . What employment . . . . Did you have employment while you were in law school? 29:09

James Ardaiz: No. When I was in law school, until my third year I worked during the summers.

George Nicholson: Oh.

James Ardaiz: And I . . . . You know, when I went to school, I was fortunate. My wife was a teacher, and she basically supported us. Well, she didn't ***basically*** support us, she supported me while I went to law school.

George Nicholson: Yeah. At Hastings, you were kind of in a bind, as I recall, in that they discouraged substantially . . . . At least, when I was there, they discouraged working, although they claimed they facilitated it by compressing the schedule if you needed to. But I never met anyone at Hastings that encouraged ***me*** to work. And I . . . .

James Ardaiz: No, technically we weren't permitted to work.

George Nicholson: Yeah!

James Ardaiz: Until you were a senior, and then you could clerk.

George Nicholson: Well, there was something that we talked about that is . . . that differentiates the age of then and now. When you went to Hastings, do you remember roughly what the proportion of male/female existed?

James Ardaiz: Mm hmm. Yeah. It was the first class that emerged with a . . . what I would call a significant number of women. It was about 20 percent; my class was about 20 percent women. And that was a sea change; it was substantial at that time. It wasn't so much for those of us that were in college, but for the professors it was a ***major***change.

George Nicholson: Hastings is notable – or at least it was in that era – for having a so-called "Sixty-Five Club." What was the Sixty-Five Club, and were any of them particularly helpful to you?

James Ardaiz: Well, the Sixty-Five Club was composed of individuals who had reached, at that time, mandatory retirement age and didn't want to quit. So we had these great legal minds – Prosser, Powell, Perkins, Kripke, Lattin – just, at that time, probably major legal figures in terms of a law school education in the country. So Hastings started hiring these people, and we had the advantage of people who were not only incredibly accomplished and distinguished, but who literally wrote the books that were used in most major law schools in the country. So, you know, people would say, "Well, Prosser says in his book . . . ." and the answer you'd give would be, "Well, in his ***class,*** this is what Prosser says," or "This is what Perkins says," or "This is what Jerome Hall says."

I think probably, in terms of law school, I was like most kids. I was scared to death going to law school. And my first day in law school, I looked around and, you know, I had so many kids there from Ivy League schools – young men and women from Ivy League schools – and it 32:15

was Yale and Harvard and Stanford, and I went to Fresno State, and that's kind of an overwhelming thing. So . . . .

George Nicholson: And you were a janitor.

James Ardaiz: And I was a janitor. And, you know, people would ask where I went to school, and I would say "Fresno State," and they'd . . . you know, usually they'd say, "Well, do they have a school there?" And so it can be a little bit intimidating. I did well after my first semester, which kind of reassured me that I could stay in the hunt. And I'd say probably the most influential professor I had in my first year was Jerome Hall, who taught criminal law and was regarded as probably ***the*** leading authority in the world on comparative criminal law. And he taught me lessons that to this day I've used in my legal thinking. I didn't ***appreciate*** them as much there; I mean, he beat 'em into my head. But looking back on him, he left an indelible impression on my legal philosophy. And, you know, I had a number of professors that I would say I appreciated them. I didn't appreciate them as much as they deserved to be appreciated, but in later years I've realized what they meant to me.

George Nicholson: Let's go back to your "the janitor falling into the pothole" metaphor. ***[coughs]*** Hopefully you can erase that. You fell into a pothole in law school with Prosser, Hall, Perkins, Lattin, all the rest you named – people that even at that time virtually no one in America except lawyers and judges and law professors knew of them. But all of the judges, lawyers, and law professors in the nation knew them as key figures in the law – unparalleled figures, in many ways, in the law. And here's Jim Ardaiz from Fresno State – "is there really a school in Fresno?" – who was a janitor, who fell into a pothole with all of those luminaries in varying degrees. And then later, after law school – speaking . . . skipping a great deal – you fell into a pothole with Bernard Witkin, who died at 90, probably 20 years or so ago, and who . . . for whom once a Lexis search was conducted comparing him to Cardozo, Holmes, Warren, and everybody else, and Witkin has been cited more than any judge in America. And so the oddity about your opening metaphor of falling into potholes and speaking of striking gold, the most important gold you have, and you've stricken, is the genius of those that you've been blessed to associate with and learn from.

James Ardaiz: I've been very fortunate. And, you know, one of the things I'm very proud of is the fact that . . . . I was a young lawyer. And back then, in this community, when you're a young lawyer you're always looking for some place that you're gonna . . . . You're looking at the firms, you're looking at all those things. And every year Bernie would come to town and there would be a dinner. And not everybody was invited; it was only the senior partners and the judges, and only some of the judges. I mean, it was a very select group. And Bernie would come to that. And then each of the judges would take some young lawyer that they felt was somebody that needed to be introduced to the major players in the legal community. And Jim Paige, who was a municipal court judge, picked me, and I went and was introduced to all the major partners, the senior judges. And later on I found out that – after several years I went to this function – that Bernie Witkin told a lawyer who called me and told 36:53

me . . . . He said that he drove Bernie Witkin home to his hotel and Bernie was talking about it, and he said, "I want to tell you that he said of you that someday you're going to be on the Court of Appeal. Someday you're going to be a judge." And so I appreciated that, coming from Bernie, because Bernie had . . . knew more judges, made more judges, broken more judges than any man in the State of California. So coming from him, it meant something.

George Nicholson: Can we stop, just for a minute?

David Knight: Sure. ***[pause]*** Anytime.

George Nicholson: Let's wrap up where we are with the janitorial service man, the school that may or may not exist in Fresno, and potholes. I think you are . . . have been quoted as describing the contrast between janitors and lawyers. Do you recall what I'm talking about?

James Ardaiz: I think you're saying that . . . . You're asking me about my comment that there's something to be said for a man that can clean a spot off a carpet that makes him more valuable than a man that can write a will. But . . . . And that many people would say that the skills of a janitor are far more valuable than the skills of a lawyer. I learned a lot being a janitor. I learned a lot about how people view individuals that are in what some people think of as a very humble profession, a humble job. I learned a lot about how people treat other people, and I learned a lot about taking pride in what I did, even though what I did was pretty much just menial or manual labor. I think it certainly colored how I view the world and how I view people, far more than individuals recognize. That and my, you know, early experiences as a child.

George Nicholson: I had thought we'd have your quip and move on, but I really have to remain here for just a moment. Given what you've just described, would it be fair to say that taking into account what Cardozo wrote going on a hundred years ago, "Justice, though due the accused, is due the accuser also. Fairness must not be strained until it's narrowed to a filament. We are to keep the balance true," in terms of reflecting on the people who came before you in the career that's going to unfold momentarily, and in terms of your perception of this courthouse, is it fair to say that your perceptions, your humility, and your wisdom gleaned from being a janitor spilled over into your relationship with crime victims and witnesses, as well as the lawyers and judges you dealt with, the public you dealt with in general, and the design of the courthouse?

James Ardaiz: I think it's fair to say that like most people, my experiences in life affect my philosophy and my reaction to people. I'm not sure that anybody would necessarily describe me as a humble person; I probably would say that I'm . . . . I probably have more humility than people recognize, but not as much as I need. The . . . . I would say that what's affected my perception of the law and my role as a judge and the expectations of the community comes from the sense of responsibility that my mother gave me, number one. I was always taught that to those to whom much is given, much is expected. I was always taught that the talents that you have are gifts from God and that the extent that you use them is 41:30

what you give back in return, and that you were expected to do your best. I was always taught that the responsibilities that you have to your fellow human beings supersede the responsibilities that you have to yourself.

And I was . . . . As a small boy, I appeared in court as a witness, and that experience dramatically colored my perceptions of judges, my perceptions of process. I swore that I would never be a judge that would do what happened in that courtroom. It affected my attitude about children's cases. And in terms of my attitude about the law, I just looked at it as . . . . And I look at this courthouse and I look at my, you know, whatever the value is of my contributions as a judge. I look at that as I tried to be consistent to what I believed in. I tried to do my best. I tried to be right. I recognized that I wasn't always going to be right. I tried to accept it when others disagreed with me, and that didn't mean that I didn't try and persuade them of my point of view. I tried not to allow defeat to deter me. And I tried to – when I became a judge – to pick role models that were people that I wanted to emulate. One of them is on this wall up here: Hollis Best, who became a mentor to me.

George Nicholson: And what was Hollis when you got here?

James Ardaiz: Well, when I got here he was a brand-new superior court judge and . . . when I came to Fresno. Ultimately I . . . when his seat was vacated when he was appointed to the Court of Appeal, I took his seat and he swore me in. And I think you heard me earlier refer to Jim Paige. When Jim Paige retired, I took his seat on the court . . . on the municipal court. Hollis Best, I took his seat and he swore me in; Paige swore me in to the municipal court; and when I was appointed to the Court of Appeal, it was with the encouragement of Hollis Best. And then when I became Presiding Justice, it was because Hollis Best retired – called me into his office one day and said, "I'm retiring. And I've sent my notice to the Governor and I've recommended that you be appointed to replace me." That's exactly what he said. And then he said, "So where are we going to go have lunch?" There was no conversation ***[chuckles]*** I was stunned by that, 'cause I was pretty young.

And so that . . . . You know, people like that played a huge role in my life. Pauline Hanson, who was on the Court of Appeal and whose seat I took when she retired for health reasons. They were tremendous influences on my life. They helped shape me as a judge. And . . . .

George Nicholson: Was she the first woman on this court?

James Ardaiz: She was the first woman on this court; she was the first woman superior court . . . on the superior court in the County of Fresno and in the valley. She was an incredibly intelligent, if not brilliant, legal figure. I mean, she just . . . she had a huge legal presence, but she also had a tremendous personality in terms of her humility and her sense of human beings. She had great compassion. And I was very fortunate that when this court was built I was able to encourage the naming of rooms in the court for judges that had been such distinguished figures on the court. And so the courtroom was named after George Brown, who almost became 46:23

Chief Justice of California. And the library was named after Pauline Hanson. We tried to pick rooms that we knew would be ***their*** favorite rooms and to kind of match their personality. And for Best, the judges' conference room is Judge Best, because that's where all the noise is and that's where all the action is; that's where he always wanted to be.

George Nicholson: It sounds like you've been involved in another series of rolling potholes. But very briefly, describe Bob Puglia and your relationship to him. I'm going to relate this back to Pauline.

James Ardaiz: Bob Puglia was, of course as you know, the Administrative Presiding Justice of the Third District and a figure of incredible force in the judiciary in California and a man of uncompromising principle and integrity. He was one of the smartest men I ever met, one of the most articulate men that I ever met. He was one of the few men that could use a word that I'd have to go look up. And when I became . . . when I got on the Court of Appeal, I didn't have much contact with him because he was a presiding justice in the Third District. But I came into contact with him because of things that I was asked to do. And he became a figure that I admired, I guess is how I would put it. He wasn't my friend at that time; he was just a person that I admired.

And then whenever I became a PJ, I was now shoulder-to-shoulder with Bob Puglia. And it's . . . in a very interesting story, Bob Puglia got very angry with me at a PJs meeting. And . . . ***very*** angry. And he made a lot of statements that were probably intemperate, to say the least, in front of the then–Chief Justice, Malcolm Lucas. And Malcolm said to me, "You need to solve this problem. And you need to . . . ." And so I went to Bob. I drove to Sacramento, I walked into his office, I sat down, and I said . . . . This involved redistribution of staff attorneys among the Courts of Appeal in California. And I had helped craft an agreement with Norm Epstein that essentially redistributed some of our openings so that we didn't increase costs. But courts that were more impacted . . . . And I had advocated trading one of the open slots on the Third District, as well as one of the open slots on the Fifth District, to the Second District. And Bob was very angry about it. And I sat down with him and I said, "You know, Bob, two things I have to say to you: One is you're the senior Administrative Presiding Justice in the Court of Appeal in California, and I have great admiration for you. I need your leadership on this. I need you to step up to the plate here. Can't do this without somebody like you. It ***will*** get done, but I need you with me because I ***want*** you with me. That's number one." And I said . . . . And he said, "All right. What's the second thing?" I said, "The second thing is that you spoke to me inappropriately, and you need to know something about me." I said, "And that is that where I grew up, if you talk to a man like that, you get punched in the nose. And you need to understand that as far as I'm concerned, I don't expect you to talk to me like that, because if you do, I'll react exactly the way you would expect me to react, which is the same way that ***you*** would react if I talked to you like that." I said, "I admire you and I need you on this." You know what? Bob Puglia and I went to lunch after that, and we became fast friends, and he became a mentor in my life and a good friend 'til the day he died and I miss him still. 51:05

George Nicholson: Bob Puglia is a remarkable person. The reason I brought him up and asked your experience and perspective: He was a remarkable towering figure, but he loved ***you***. I don't know whether to say like a son or a brother. And he viewed you a soldier in arms in terms of working on appellate and judiciary governance because of the way that the six appellate districts were not often consulted. And so the incidence you've described, I think, is a reflection of the ongoing problem that he had with the Judicial Council and the Administrative Office of the Courts – of the . . . ***their***, not yours, their general lack of regard for Administrative Presiding Justices in the six districts, which became more aggravated and less aggravated during the decades. But Bob loved and respected you, probably in a handful of a half a dozen or fewer colleagues and friends in the state. And he also, as to Pauline Hanson, told me personally he thought she was a remarkable woman and an outstanding judge. And I have never forgotten that. And I just wanted to put in context what you said.

I'll digress to tell you one thing. Instead of paid interrogators, the process setting up this Appellate Legacy . . . Appellate Court Legacy Project wanted to have justices doing the interrogating because we know each other and we've got some context and knowledge, and it spills over from time to time.

We need to go back. You've skipped over a lot, and you've made things a lot easier, but let's go back just for a moment. When you got out of law school, before or after, how soon did you find out you were going to be a prosecutor?

James Ardaiz: Well, I . . . when I was a senior in my third year, I was a . . . I went to work for a very prominent personal injury firm in San Francisco. And I just didn't like it. It didn't suit my personality. I had worked during the summers as a . . . in the District Attorney's Office, and so I decided to come back to Fresno. My wife and I, we had our family here. So we came back to Fresno. Went to work in the D.A's Office. And that's where I, you know, tried my first case and loved . . . I loved being a trial lawyer and I loved being a prosecutor.

George Nicholson: You say you tried your first case. You tried your first jury trial.

James Ardaiz: Yes.

George Nicholson: Obviously court trials go hand in glove with all of that.

James Ardaiz: Yeah, I tried my first court trial when I was a . . . I finished my second year in law school. I was a certified law student. And I always tell this story, and it's kind of funny. You know, lawyers go their entire lives without a . . . the Perry Mason moment, you know, where the witness or the defendant cracks on the stand. And it just doesn't happen, as you know. My first case: court trial, witness on the stand . . . .

George Nicholson: Law student. 54:47

James Ardaiz: I was a law student. And I stumbled and bumbled around and said, "You're lying." And the defendant said, "Yes, I am." ***[laughs]*** And I was so startled that I said, "So you admit you lied." And the judge said, "He already said that." And it . . . I mean, it scared me so bad I didn't know what to say. But the prosecutor that was in the courtroom supervising me started laughing – went back up and told everybody that in my first case I was a born trial lawyer 'cause I cracked the defendant in my first case. But that's true; I actually, you know, had that happen. My first trial, my first defendant, and he admitted on the stand that he was lying and he was guilty. ***[laughing]***

George Nicholson: Well, it is like you said: We all go through life without that happening. And to put this in context for future scholars that may look at your transcript, the video, or your cases, they ought to go see some "Perry Mason" TV shows and find out that while it doesn't happen in life ever, if at all, it happens every week on "Perry Mason."

James Ardaiz: It happens every week on "Perry Mason."

George Nicholson: So that's a . . . . You became Chief Deputy.

James Ardaiz: Yes.

George Nicholson: And when you became Chief Deputy, this was . . . you were thrust into the trial of homicide cases.

James Ardaiz: Yes.

George Nicholson: Did you try more than one?

James Ardaiz: Oh, I . . . . You know, I tried to figure it out one time. I don't remember how many murder cases I tried. I know that on an individual basis, I either . . . I participated in over 150 homicides. I tried a significant percentage of those and personally went to over a hundred homicide scenes as a prosecutor. So that was my primary role, was handling homicide cases before I became a judge – capital cases. Of course, back then we didn't have as many capital cases as we do now.

George Nicholson: The reason I made the comment I made earlier, asking you about Cardozo's quote and your judicial and architectural . . . your artistic perspectives, was that I knew you tried murder cases – a lot of murder cases. But you also dealt with rape and child abuse and . . .

James Ardaiz: I did.

George Nicholson: . . . all the other crimes. And to really know a man or a woman, probably better than most people know one another, is to watch a man or woman act as the prosecutor in a child abuse, child molestation, child murder, rape, rape-murder. Parents are . . . . Dealing with the parents of a murdered child, or the child or relatives of a murdered adult, knowing what I know about the practice of law – in particular, that particular group of experiences – when you made the comment, it is a comment that has to be rebutted and you're going to rebut it. It's true, any 58:20

public figure has people that perceive them as impatient or intolerant or lacking in wisdom and humility. I'll ask you point blank, and if you have a "yes" or a "no" to explain it. How could you handle the work that you handled and not have humility infused throughout your soul?

James Ardaiz: Well, in terms of humility, if you look at it . . . . I guess I look at things in terms of humility being respect for your human . . . fellow human beings and appreciation of the struggles that they go through and a respect for that. A respect for human ***life***. A sense of helping people. I always viewed my role as one of helping people. I felt like I was an advocate for . . . . You know, if it was a woman that was raped, I was an ***advocate*** for her. If it was a child that had been molested, I was an ***advocate*** for that child. They became very real to me. And if it was a murder case, then I was an advocate for the murder victim. And I was an advocate for justice, and I was deeply enmeshed in that. And I think I probably was . . . . You know, I would become so emotionally steeped in it that I could be probably described as relentless in terms of my pursuit of a result that I thought was appropriate.

I think, you know, people confuse humility with expectations about personalities, and I kind of look at it as I care a great deal about my community. And I think if you look at my career, I hope that if anything is said about me, it is that what I did reflects that I cared about my community. I tried very hard to use my skills to benefit my community, and that includes whether it was things like Three Strikes, whether it was the time that I put in as a prosecutor, whether it was educating judges. I felt that all of those things . . . . I did those things 'cause I cared. I can't speak for, you know, how I'm perceived by people. I can only say that I care a lot about people, and I care a lot about my community, and I care about the world I live in. And I want it to be a good world. And so I don't give up on it, I guess is how I would put it. And I don't give up on trying to shape it. Now, maybe that shows ***lack*** of humility because I want it to be shaped the way I think it ought to be shaped. But I walked away from my experience as Chief of Homicide with an incredibly deeply ingrained respect for life and for an understanding of human misery and human emotion. And I didn't want to see people have to go through those things. I guess that's kind of my answer.

George Nicholson: At some point during your experience – that experience you've just described – you either decided or someone decided to try to persuade you to become a judge . . .

James Ardaiz: Yes.

George Nicholson: . . . because you weren't appointed the first time. I think you ***ran*** for judge.

James Ardaiz: I was elected, yes – to an open seat.

George Nicholson: What persuaded you to do that?

James Ardaiz: Well, I was young, I was 32, I was doing a job I loved, I was Chief of Homicide. And Judge Paige told me that he was going to retire, 1:02:43

and he encouraged me to run for his seat. Well, I hadn't really given a thought to being a judge at that stage of my life. I mean, judges were old guys. And Judge Best, who was a superior court judge, encouraged me to do it, and then some of the other judges came and said, "You know, we would like you to do this." So I thought about it and I talked about it to my wife, because I had really planned to become the District Attorney – that was my goal. She thought it was a good idea, and so we put together a campaign and she, you know, went door to door and she towed my . . . two of my kids around in a little red wagon. She was pregnant with our third child, and she would haul them around and knock on doors and . . . . Actually, I was too shy to knock on doors; I hate to admit that, but I was unable to face anybody face-to-face and say, "Would you vote for me?" So it was my supporters that did it; I didn't have the nerve.

George Nicholson: Well, as we're going to find out, your electoral experience as a municipal court judge – your knowledge and understanding of the voters and the public and the matter . . . the contentious matter of judges in an electoral forum – would be carried forward and you would deal with this as the chair of a task force – I think the Chief Justice appointed you chair of the task force – on judicial elections.

James Ardaiz: Yes.

George Nicholson: And of course, as an appellate justice you were involved in appellate court elections as well. Rather than take this in order later, let me get to that just for a moment. What did you learn about judges and elections, judges as people, judges as judges or potential judges, and the people and the electoral process?

James Ardaiz: Well, the first time that I was up for election in the Court of Appeal, as you know you're running in each individual county, and you're on the ballot. And I remember at the time Senator Poochigian . . . . I was at his election party and he is now, of course, a sitting justice on this court. But he came to me and he said, "Oh, you guys are doing fine. You're . . . ." He gave me the percentages in Fresno County, and I immediately recognized there was a problem. And so I went home and I started calling different counties to see what was happening. And that was in 1990, I believe it was. And I was losing in Kern County, I was losing in Tulare County, I was losing in Madera County. And I hadn't done any campaigning; I hadn't done anything. Everybody said, "You don't need to; it's not a problem." And as you recall, when a lot of justices woke up the next day, some of them barely survived. One justice on your court . . . .

George Nicholson: Went to bed positive he lost.

James Ardaiz: I went to bed thinking I was going to lose. And so I thought, "Okay, I better look into this. This doesn't make any sense to me. What did ***I*** do?" And as I looked into it, I realized that it was because of the names of the judges. Ethic names. And of course that was disillusioning to me, but I said, "Well, this doesn't . . . this, you know, this just doesn't make any sense." So I looked at everything in the state – started 1:06:49

looking at the voting patterns. The Chief Justice . . . . I told the Chief Justice about it.

George Nicholson: Which Chief Justice was that?

James Ardaiz: That was Ron George at the time. And Ron . . . Chief George had me . . . he appointed me to a committee to make recommendations. And I made recommendations. I went through and I showed the demographics of voting for judges, how it worked, why people voted. And the interesting thing was that many people didn't vote in judicial races, which meant that people that ***don't*** like judges, their vote became disproportionately more influential than others, and so it drove your percentage down. So I found out that in my race, as in many . . . as many other judges, you know, half the voters weren't even voting. They'd vote for the top of the ticket, then they didn't vote. So what I recommended is that we go out, we make an aggressive campaign with respect to the Secretary of State, that we go to the various papers, we get endorsements, you know, we conduct a dignified voter information campaign. We didn't go out and collect money. But as a result, those recommendations were adopted by many courts, and as a consequence, the next time we ran we completely reversed that. And we had endorsements from the newspapers, and our voter profile went up, and so our election percentages returned to what they . . . I thought they ***should*** have been, you know, which is in the high 60s and 70s instead of, as some of our colleagues found out, thinking that they had 50.1 percent, you know. Because people don't know much about appellate court judges, so voting against them is kind of . . . . They just . . . . You know, you would find they'd vote against you because you were a woman, because you were Hispanic, because they . . . you were African American, because . . . . You know, all kinds of reasons that have nothing to do with qualifications.

George Nicholson: They didn't have any other reason. All they had was . . .

James Ardaiz: No.

George Nicholson: . . . superficiality.

James Ardaiz: Superficiality.

George Nicholson: In terms of . . . .

James Ardaiz: It made a big change. I was happy to see that change take place.

George Nicholson: Well, you played a pivotal role, obviously, with your task force and the complicity of the Chief Justice. But let's clarify one thing. Appellate elections are simply confirmation: yes or no.

James Ardaiz: Correct.

George Nicholson: That's why you focused on percentages. So there's really – at least usually – no conflict, no candidate running against you. But if there are contentious things – for example, done by the Ninth Circuit – an awful lot of voters don't know the difference between the Ninth Circuit 1:09:34

and the Fifth District. So if they're mad at the Ninth Circuit for throwing out the Boy Scouts or the Pledge of Allegiance . . . .

James Ardaiz: They vote against the judges on the Fifth District. That's right.

George Nicholson: They've got . . . . You've got a target on your back. But what you did overcame that. Now, with the trial courts, they have contested elections, but only if someone actually files. So it's a little different because overwhelmingly very few of them are on the ballot. But you're an unusual person, because you've been a trial judge – having gotten there ***by*** election – you are an appellate justice who not only has endured the ordeal of an appellate retention election but almost losing it, and then, as you've done with everything else in your life, doing something about it. One man can make a difference. So I will submit a parallel track in your life that not only have you gone in and out of potholes – each of which, more or less, has been a gold mine – you've been a man who has proven that one person, one man, one woman, can make a difference.

But what I would like to get at in a capsule, and then we'll move on, is there's an awful lot of perspective among judges: "I don't think I ought to be on the ballot. I mean, after all, I'm independent, and I can't be . . . I can't honor my conscience and be responsible to the electorate." What's your reaction to that kind of thinking?

James Ardaiz: Well, when people say that kind of thing to me, my answer is this: People who have the kind of power that judges have, the amount of influence on the lives of their fellow citizens, it is extremely important that our citizens have something to say about who those people are. And so as much as I disliked being on the ballot, I really believe that it is important that the public be able to vote for those people. I think that's important. We're not dictators; we're servants. Public servants. And I think the confirmation election for appellate judges is an appropriate thing. For trial judges, as much as I dislike the process of elections for trial judges, I honestly have to say that I still feel that it's important that the public choose who has that role. And so I disagree with those that think that judges should be appointed and never be subject to public acceptance, public vote. I disagree with that.

George Nicholson: Can we take another momentary break?

Beside your skill, discovered early on by your English teachers in high school – obviously oral presentation – I like to think of both written and extemporaneous being part of being a lawyer. I know you well, and you do, too. It's best that we argue, when we can, extemporaneously or apparently so. One of the things you have done throughout your career, as a law student briefing cases, as a prosecutor – whether in court trials or jury trials – as a municipal court judge, superior court judge, and appellate justice, and I assume that you've been on the Supreme Court from time to time as a pro tem?

James Ardaiz: Yes.

George Nicholson: Throughout all of those, oral argument 1:13:20

James Ardaiz: Wrote one of the first dissents of a pro tem on the Supreme Court! ***[laughing]***

George Nicholson: Let's get to that one. One of the commonalities is, oral argument becomes a way of life for you – either you doing it, or having it done to you. When you're doing it, I suspect you think you're doing a good job and you're going to turn that judge around if he appears to be on the wrong track. But when you're the judge, whether trial or appellate, sometimes you have a different perspective. What's your perspective of oral argument as a trial judge and an appellate judge?

James Ardaiz: Well, I think by the time you get to an end of a case, whether you're a trial judge or an appellate court judge, you have already started to form a reaction to the case. So this idea that at the time oral argument takes place you have a completely open mind, if you have a . . . I just think that judges aren't turnips. I mean, they've started to evaluate the way they think the case should turn out at that point, because that's what we're always thinking about when you're sitting on the bench. You're reacting to whether you believe things, don't believe things. You're reacting to legal arguments. You're forming opinions. And all of that is kind of merging together into an ultimate conclusion. So by the time lawyers argue the case, I always looked at it as really talking me out of my tentative reactions. And I would say that I tried to ensure that I was receptive to a different point of view. And the same on the Court of Appeal. I mean, we walk in now, we front-end-load opinions, we've got drafts that are written before the lawyers argue. Those drafts clearly demonstrate a certain mindset. So I try to walk in to provide them the opportunity to convince me that at least my tentative reaction to it was incorrect. That's kind of how I approach it. Does it have value? Yeah, it has value. I mean, I frequently found that attorneys would convince me that maybe something that I thought was incorrect. Sometimes they would actually get me to change my mind in a way that was ***not*** beneficial to them, because after listening to their argument I decided they didn't deserve to win, and I had tentatively looked it at that way, 'cause I began to see the holes in it. So I think there's a value to it. I think people that say there's no value to it are wrong. I just think that the idea that you're going to come in and overwhelm a judge with the brilliance of your rhetoric, I just . . . it's just not going to happen, OK? I've never seen it happen. I've seen lawyers carry the day, but generally it's because they managed to focus – and particularly in the Court of Appeal, where the judges have been around. And they've been trial judges, most of them, they've been trial lawyers, they're going to cut through the rhetoric, the snow job, the emotion, and pinpoint the exact issue they have to decide. You want to be an effective lawyer? Hit the point that those judges have to decide. And those are the times that I've seen lawyers really shift the court, when they hit the bull's-eye on the point and they are perceptive enough to understand how they have to shift the court.

George Nicholson: You're making a distinction, I think, between a blunderbuss oral argument and a focused oral argument. Don't you have the same problem, often, in the briefing, where instead of focusing on the 1:17:20

potentially pivotal issue, the lawyer will put in 12 or 14 issues. Buried within those, perhaps, is that single issue about which you and your colleagues might, in a given case, have a problem. And you have to hunt for it, almost.

James Ardaiz: Well, that's true. I mean, you read these briefs now. . . . It's interesting, now that I'm away from the court and I look at things from the standpoint of a lawyer, my perspective is significantly different, understanding what those judges are thinking, than the average lawyer would have. I just don't look at cases the same way.

George Nicholson: There are six appellate districts in the state, and there are some subdivisions of that. But within those six districts there are divisioned Courts of . . .

James Ardaiz: Right.

George Nicholson: . . . appellate districts and undivisioned. What is your court? Is it divisioned or undivisioned?

James Ardaiz: It's a unified court. So the unified courts are the Third District, the Fifth District, and the Sixth District. All the rest of the courts have divisions. And so in the unified courts, the Presiding Justice – there's only one – becomes automatically the Administrative Presiding Justice, or chief judge. In the courts with divisions, each division has its own PJ and the Chief selects the chief judge – the Administrative Presiding Justice.

George Nicholson: Which of those – unified or ununified – do you prefer, and why?

James Ardaiz: Well, I prefer the unified courts without divisions. I think it allows the judges to work with one another. You don't end up with stratified panels. You're . . . . In the course of a year, the Fifth, for example – and I know the same is true at the Third – the judges rotate, so each month's panel is going to be something different. So you don't end up with the situation like you would end up in a court with a division where you end up with two judges who have one political philosophy – or one judicial philosophy, I should say – and another judge who is constantly writing dissents, and the disagreement and the acrimony. I just think it produces a healthier court. That's just my view of it.

George Nicholson: Is there a potential – in your view of that structure, a unified structure – promoting collegiality in general, because everybody gets to know one another, perhaps better than in an environment where they're pushed together and have to work together?

James Ardaiz: You know, definitely. I just think that it's . . . . You work with other people, you gain respect for other people. If you gain respect for the intellectual power of another individual and their character, you value their opinion more. It forces you to consider your own position. I mean, there is a certain amount of humility that one has to have to be an effective appellate court judge, which is to realize that, you know, there are other people in the room and they're just as smart as you and maybe . . . probably a lot smarter! And you need to think about what 1:20:46

they're saying. So you come from an atmosphere of being a trial judge, which is, "What part of it . . . . What part of what I said do you not understand?" to becoming an appellate court judge, which is more, "Okay, how do I have to influence the points of view here to reach an objective?" So it's necessarily collegial, necessarily embracing. And I think unified courts promote that.

George Nicholson: When you began your work here, contrast it to the . . . . And I don't mean politically active, I'm talking about an energetic and active life. There's a difference between the life of a prosecutor and a trial judge, or the life of a civil lawyer who's a litigator – trial litigator – and an appellate justice or a Supreme Court justice. Some accuse appellate and Supreme Court justices of living in an ivory tower. You were always active, energetic, enthusiastic, outreaching, entertaining, funny, gracious. But when you get into this environment – this inner sanctum, so to speak, of the law – what was it like for you as the transition to what some call the ivory tower, the inner sanctum, the . . . away from the hustle-bustle of the trial court, whether on the bench or off?

James Ardaiz: Well, okay, first of all, I went from handling capital murder cases to becoming a municipal court judge and listening to disputes about one weekend vs. two weekends in jail, which was a very difficult adjustment for me. I went from the municipal court, where I drifted into administration, becoming a presiding judge . . . . But I was fairly close to the human element and you have to remember, most judges at that time were considerably older than I was. So in terms of my colleagues, the role was not exactly one of peer as much as it was young man and older man. When I went on the superior court, I was still pretty young; I was, I think, 35 at that time. At that time, that was very young. And I started moving into handling cases because I was used to handling complex cases. So I started doing complex criminal trials and civil trials.

And as a transition, however, when I went to the Court of Appeal, it was . . . . There's a dramatic transition that takes place between being a lawyer and being a judge. And there's just a natural distance that begins to evolve between you and the bar. And then, when I went from being a trial judge to being an appellate judge, the change was just as dramatic as it was from becoming a lawyer to a judge. It was a huge change. Everybody was considerably older than I was. They had incredibly long careers behind them, which I didn't have. Most of them were – in our legal community – kind of towering legal figures, revered individuals. And, you know, I was like the young family that moved in down the block, you know. The . . . . So it was a difficult transition for me to come to the Court of Appeal.

But I had been a PJ in the trial courts, and at that time Presiding Justice Franson was the PJ of this court, and he was PJ for a year before Hollis Best became the PJ. And Best was not a guy that liked to do a lot of administration; it just wasn't his thing. He was a nuts-and-bolts guy. He liked being in court. He liked handling cases. So he handed, to me, a lot of the administration of the court because I was an administration person. So, you know, I ended up doing budgets and I ended up doing policy and I started seeing things. And so I would come in and I 1:25:35

would say, "You know what's wrong here is the way we do this." And he would say, "Well, you know, go fix it." And he would encourage me. And then I would come back, and he would say . . . . I'd have my proposal and he'd say, "Well, you know, you got this, this, and this." "Okay," you know. And then I'd come back and adjust it. But he was very receptive to that. And that's when I began to fall into a role where my colleagues began to look at me more as a presiding judge. And then when I evolved into that role, the transition was easier.

But at that time I started doing things on a statewide basis. I mean, we had . . . . I . . . . The Chief Justice, Malcolm Lucas, had assigned me to a committee to evaluate the hourly fees for the various appellate projects. And I started looking at them, and I said, "I don't understand this!" I said, "This doesn't make any sense to me. It's just a bunch of numbers. I don't know, what does this mean?" And nobody seemed to be concerned about it except me. And I went in and I asked what all the numbers meant, and I found out that lawyers were billing for reading advance sheets, and lawyers were billing for all kinds of things. And I said, "Well, this is ridiculous!" So I wrote a memorandum, and they sent me off . . . Hollis Best sent me off to work with Bob Puglia. He says, "You have to convince Judge Puglia." So that's where I really first met Judge Puglia. And Judge Puglia said, "I'm going to assign Judge Davis to this." Rod Davis. And Rod Davis and I had gone to law school together. So here are these two young guys, not . . . . Well, I have to say this. Davis actually . . . . I was going to say "two young guys who really didn't realize what they were taking on." But Davis actually did. He told me, he says, "You're . . . . You know, you're crazy." I can remember he and I having lunch and he said, "You know, this is never going to happen." And I said, "No, no, no. We need to fix this. This system is wrong." So we went and appeared in front of the assembled administrative presiding justices and the Chief Justice of California. We're brand new; I mean, I'd only been an appellate court judge for about a year and a half, two years. So I walked in there, sitting down at the end of the table, and Davis is basically leaning over and saying, "You really got me into a fine mess." I mean, he was looking for . . . he was there for me, but he . . . there was space in between us. And Malcolm Lucas had that deep, rumbling voice – I mean, looked like a Chief Justice straight out of Central Casting. Asked me questions, and I started talking to him about statistics and what was being done. And I remember Presiding Justice Anderson of the First District said, "Are you kidding me? This is what we pay for?" And they started looking at it, and as a result of that, AIDOAC was created and . . . to regulate the costs of the appellate projects. And that's why today we have regulated appellate projects, and we saved millions and millions of dollars by redoing the way that we pay the projects and how they function. That was as a result of that.

George Nicholson: Another pothole.

James Ardaiz: Yeah, another pothole. I mean . . . .

George Nicholson: What is AIDOAC? Tell us what that stands for.

James Ardaiz: ***[laughs]*** 1:29:12

George Nicholson: If you can. I've never . . . .

James Ardaiz: Well, it is . . . . You know what, I never did quite understand what AIDOAC stands for. It is essentially the appellate projects oversight committee.

George Nicholson: It's a screening committee for the fees.

James Ardaiz: Yes, and . . . .

George Nicholson: And it consisted of . . . . It did then consist of judges, largely. But it's a little larger now, isn't it?

James Ardaiz: It's judges and some members of the projects and some private lawyers. And what it does is it brings under control the costs of appeals. And so AIDOAC now has become an ingrained part of what we do. But that's how AIDOAC came into being. And you know, from AIDOAC, then I . . . the Elections Committee, and from the Elections Committee ultimately to some of the bigger things that I was asked to do.

George Nicholson: Two sidelights: One, reminding you one man can make a difference. And secondly, Rod is now retired as are you, and he is an Episcopalian priest.

James Ardaiz: He is. I'm very proud of him. We went to school together, and . . . remarkable man. And I . . . nobody could be happier than I was for the day of his ordination. I just . . . . To see somebody achieve that, at that stage of life, was a remarkable thing.

George Nicholson: Tom Hollenhorst, another of our elder colleagues – he's on the Fourth District, Division Two –

James Ardaiz: Yes.

George Nicholson: . . . has written and published a master's thesis about, and promoted, issuance of tentative appellate opinions prior to argument. I'll tell you going in, Puglia not only didn't agree, but would have never – as long as he lived and worked – allowed this to happen in the Third Appellate District. What was your reaction to Tom's master's thesis?

James Ardaiz: Well, I didn't agree with it. First of all, I think the problem is it's one thing for me to acknowledge that when you walk into court you have a tentative reaction to things. It's quite another thing to put it in writing. It's very hard to convince people that are arguing a case that the . . . . It's like the judge walking out and saying, "Okay, before we begin, I'd like to tell you that I think that you lose and you win and this is why." And then you're looking up and you're at the losing end of this and you're thinking, "Now I've got to talk these three judges out of this opinion that they've already agreed to?" I think that it's demoralizing. I think that it, to a certain extent, trivializes the process in the sense that it causes people to think that we really don't have open or receptive minds. It's very difficult to believe that judges have receptive minds that 1:32:22

have for all intents and purposes already signed their names to the bottom of an opinion. So I know that Justice Hollenhorst's view is that it causes people to focus on it, and, you know, he really believes that they're receptive, and I think they ***are*** receptive. I don't think it's about whether the judges are receptive. I think it's about the ***image*** that it creates to the people that are in ***front*** of the bench. And in that sense, I disagree with it and I share Judge Puglia's point of view.

George Nicholson: It's . . . . Empirically, nobody's agreed with him but his own district and division, as far as I know. But to clarify one thing: I'm not sure that you said this, but it is a submission to the lawyers before oral argument . . .

James Ardaiz: Correct.

George Nicholson: . . . an actual draft. So it's not just you giving a verbal heads-up like you just said – "Id like you to know that you're going to win and you're going to lose and this is the reason, but I'm only doing this tentatively" – it's actually in writing and mailed out to them ahead of time.

James Ardaiz: I think it has a . . . . You know, it can't help but have an impact in terms of your perception of whether the judges are really receptive to your point of view or have an open mind. And I think that's very important, for people to believe that judges have open minds, 'cause I think they do. And I think, as I said, I got to the end of a case, sure, I'd begin to formulate an opinion. But I was receptive to another point of view. And I think it takes away from that perception of receptiveness.

George Nicholson: I want to have one – actually two – procedural inner workings of the Fifth District, if we could, in a way that you can talk about. What is the difference between a hot bench and a cold bench at the appellate level?

James Ardaiz: Well, generally a hot bench is one where there's a lot of questions that are asked of the lawyers. It's very active, vigorous, with respect to the process. I think a cold bench is one where the judges usually don't say very much; they're watching. To me, asking questions of lawyers is only useful to make a point. And you're trying to make a point two ways. You're either trying to make your point to your colleague over on the other side of the bench that he/she is . . . . "See, this is what's wrong with your opinion, and this is why my opinion is right." Or you're trying to steer a lawyer towards a point of view and expose the weaknesses – and/or the strengths – in their position. You know, most of the time we've actually thought about what you're talking about, and so in asking about it, I mean there are times when you want to refine it to determine whether or not it actually plays, or "writes," as you and I would say. But, you know, I think it just depends on the individuals. I mean, you know, the Supreme Court judges get up there, some of them talk the whole time on the United States Supreme Court, and some of them . . . one of them never says a word! He's not . . . I think Justice Thomas is not recorded to have ever asked a question! ***[laughs]*** I think if he did the lawyers would faint. I . . . . You know, I think it's very disruptive of lawyers. I like to give them the opportunity to make their point, okay, and not just hear me talk. So that's 1:36:20

George Nicholson: Well, would you . . . . From the way you've talked so far, I would suspect that the Fifth is neither hot nor cold, it's . . . . You're more akin to the U.S. Supreme Court, and some of your colleagues will ask more or less questions, and some will ask more?

James Ardaiz: I think most of the . . . . I think honestly all of the judges here at the Fifth District are pretty measured in their approach. Generally speaking, they're very respectful. They all recognize the amount of power and intimidation their position has. And while they may ask an incisive question that may, you know, cut a lawyer in . . . a lawyer's argument in two, I think they recognize what they're doing and they . . . there's no effort to bully or intimidate or overwhelm lawyers. I can only speak for the court . . . my court, Fifth District. But that's my perception: that all of my colleagues are pretty respectful and don't . . . . If they ask a lot of questions, it's because they have a lot of questions.

George Nicholson: They have a need.

James Ardaiz: Yeah.

George Nicholson: And the last question on that is . . . . I know your court, so I'm not asking you a loaded question. Your colleagues and you – speaking of the humility and the love you have for the law and your colleagues do – the preparation that you bring to oral argument is such, whether there are a lot of questions or not, the lawyers know now that you're prepared. You know the case. And it's kind of arrogant to say it, but lawyers in our court have said – and I'm sure they've said it in yours – "You obviously know more about this case than I do." And that's a fair observation in many cases, if not all of them.

James Ardaiz: I think you see the case a lot differently than a lawyer does. That's been my experience, certainly. Now, on the outside looking in, when I see a case and how I look at it, I look at it as a lawyer, I look at it as a trial judge, I look at it as an appellate court judge. So I see a case kind of globally. I think what happens as appellate court judges . . . . And it was something that I always admired out of Hollis Best. I could never understand how that man could look at an issue – and I ***knew*** he didn't know anything about the law in that issue – and he could generally come up with an answer that was probably pretty close to correct. And I thought to myself, "How does he do this?" And what I've concluded is that he understood the logic of the law. And most lawyers don't understand the logic of the law. Most judges don't understand the logic of the law. And I think if you can acquire that sense, the law does have a logic and a consistency, in principle and in consequence, that is discernible. And I think when we see somebody and we say he or she has an incredible legal mind, I think what we're saying is they understand the logic of the law. And it sets lawyers and judges apart. He had that. And I think . . . . And I've seen judges that I think understood the logic of the law. I mean, I used to read some of Bob Puglia's opinions. And I'm not going to tell you that I agreed with everything that he said, but I will tell you that there were things that he wrote when I thought, "My God. You know, not only is that true, but how come I never saw that?" And so I . . . . You know, I think over the years that you absorb some of 1:40:48

these things, and your ability evolves. And I'd like to think now that at least I have the beginnings of understanding of the logic of the law. But, you know, that's kind of how I look at it.

George Nicholson: Your relationship with Puglia was significant, long, intimate, and he would be another one of those potholes, much like Witkin or your . . .

James Ardaiz: Yeah, he would be.

George Nicholson: . . . law professors in law school or your English teachers and so on. I can say that with confidence because I knew him for 40 years and . . . from his days in combat in Korea as a sergeant in foxholes till the day he died. He had a grace and a humility about him that ***you*** have. And one of the notable things about Puglia that we're all going to have to face – and I think, knowing you as I do, you're going to face it the same as him – when it comes time for the end, I was with Bob and I was expressing outrage and grief and all of that, and he said, "Nick, I've led a good life, I've done my best, and it's my time. Your time's gonna come, too, Nick." And I'm leading up to something by saying that. I personally think it's one of the unfortunate things in the law that when it comes time to consider people for the U.S. Supreme Court, the likes of Bob Puglia and Jim Ardaiz and other people that have learned the logic of the law from the ground up, and truly come from what some would say – and I include myself with you, so I'm not throwing rocks at you – who come from the other side of the tracks, really have a place on that high court. And there is a logic of appointment and elevation to that court that's antithetical, I think, in many instances to the logic of the law you're talking about.

James Ardaiz: Well, I made a comment to Bob Puglia one time, when he was talking, and he was complaining – as he frequently did – about opinions from the California Supreme Court. And I said, "You know, Bob, you ***would***have been on the California Supreme Court if you'd ever been able to keep your mouth shut." And the problem with Bob was he left no opinion unshared. And his opinions could be overwhelming and intimidating because there was tremendous logic to it and he could say things with such incisiveness that it could intimidate. And, you know, I think one of the advantages that you have . . . . We always talk about people that are appointed to the U.S. Supreme Court, and it always seems that they say things like, "Well, you know, no, I have no fixed opinion about that." And you think, "Really? You're telling me that you've never thought about these issues? You've never thought about abortion, you've never thought about the death penalty, you have a completely open mind? I'm supposed to believe that?" Well, most of the time you couldn't . . . you didn't have a track record to look at to know what they really believed. And with Bob you always had a track record. ***[laughing]***So . . . .

George Nicholson: Well, there's one additional factor about Bob, and I don't know how you'll react about this with you, but I've always felt this about you. ***[coughs]*** Excuse me. As they say, everyone's entitled to their own opinions, but no one's entitled to their own facts. And when it comes to the law, and you're actually citing book and page, a statute or regulation, a paragraph from an opinion, the problem we all had in dealing with Puglia in argument and in discussions of the cases upon which we worked 1:44:46

with him, he had a photographic memory. And not all of us do. And so when you said he could be intimidating, one of the reasons he was intimidating – and I've noticed this about you, whether you'll admit it or not – is both of you are smarter than the rest of us and remember things the rest of us forget. So I don't know if you have a photographic memory, but if you don't, you've presented a reasonable facsimile of one to me and your colleagues and other friends.

James Ardaiz: Well, I don't know about that, but I . . . .

David Knight: I'm sorry, but I'm going to stop you. Stand by, and any time.

George Nicholson: You mentioned earlier that you had served at least once – my guess is from time to time, as anyone who serves 20 years on the Court of Appeal does; it's done by alphabet as you know, and it's otherwise random, besides the alphabet – you've sat more than once on the Supreme Court as a pro tem?

James Ardaiz: Yes.

George Nicholson: When you have sat, was there anything particularly different about sitting with seven people, sitting in the highest court, than sitting on the Court of Appeal with quote unquote "a mere three," and . . . which is described by many as an intermediate appellate court?

James Ardaiz: Not really, just more judges. The process was a little different, and of course who you were sitting with. I mean, I was sitting across from Stanley Mosk, whose opinions I had studied when I was in law school. So . . . . But other than that, no, it was just more judges. I think the process is much more detached than it is in the Court of Appeal. The judges in the Court of Appeal are much closer to the record, much closer to the issues. I think the higher you get – and I think it's . . . I don't think our court is any different than any . . . our high court is any different than any other high court – I think as cases go up, the issues become more esoteric and less personal, I think. So . . . .

George Nicholson: Was there anything about your experience on the Supreme Court that in one or more of the cases led you to distinguish yourself in some way?

James Ardaiz: ***[laughs]*** Well, I think it's . . . you're probably referring to my writing a lengthy dissent in a case called ***Caltrans v. Professional Engineers***. And it's a . . . it's kind of unusual because at the time I wrote that dissent, the . . . I did not realize, because I was a pro tem, that the court was getting ready to address the issues in ***American Pediatrics***, involving parental consent. And my position in that dissent directly contradicted some of the positions that the court needed to take. So, to a certain extent, ***Professional Engineers*** was a building block to ***American Pediatrics*** And of course I had no knowledge of that. So in writing my dissent, which essentially said that deference should be made to legislative findings, and trial judges and courts should not be interfering with legislative findings except where, on their face, they were clearly incorrect. The result was, of course, that in ***American Pediatrics*** they needed to address legislative findings. So in that 1:48:45

Subsequently my dissent was noted by Janice Rogers Brown, who was sitting on the California Supreme Court, addressing the issues that I had raised. And so I did not realize that one of the reasons that I didn't get anywhere with my dissent is because it was inconsistent with the majority view in the upcoming ***American Pediatrics*** opinion. But also there is a certain amount of presumptuousness in a pro tem appellate court judge writing a 25-page dissent to the members of the California Supreme Court. I didn't think about it at the time, but Chief Justice George reminded me of it on numerous occasions. ***[laughs]*** So . . . .

George Nicholson: In addition to your judicial . . . .

James Ardaiz: He always smiled when he did it, by the way. But he reminded me.

George Nicholson: I have when listening to the story. In addition . . . . Having been there and done that several times, and I have yet to write a dissent. In addition to your judicial career, you're an author – a prolific author. You have written or write laws, initiatives, appellate opinions, articles, books, and – now that you're in private practice – memoranda, motions, and briefs, in all likelihood. Let's start with your appellate work. I don't think you've seen these statistics; I don't remember if we pulled them out for your retirement dinner or not. But it may surprise you to know you participated in 5,116 opinions that were filed, and as we know, not all of them are published – a very small fraction are published. But you also, on your own, had published 151 opinions. You had 240 concurrences and dissents published, and that's 391 in all. And of all the cases you worked on, apparently – I don't know, this sounds awfully small; it's certainly small for me – but apparently only 6 were granted review in the California Supreme Court.

James Ardaiz: I think that's probably about right.

George Nicholson: Think so?

James Ardaiz: But . . . .

George Nicholson: That's a remarkable figure.

James Ardaiz: Well, I don't know. Like Bob Puglia used to say – and I keep mentioning Bob's name – but I remember when he retired he said that some of his best work the Supreme Court had taken.

George Nicholson: There was a corollary to that.

James Ardaiz: It changed . . . .

George Nicholson: And I'll ask it of you. Some of his best work is still in the ***California Reporter*** And kind of an ***[inaudible]*** question: Did you have some of those garnered during the era the Supreme Court was depublishing opinions?

James Ardaiz: Well, I did have one that . . . . I can't remember the name of the case. It's a . . . . It turned into, at the time, a fairly well-known case. 1:51:47

And it had to do with the standard of proof with respect to voluntariness of confessions. Well, I had a case that . . . it went up on a grant of review and it was not the lead case on it at the time. The court was taking another case. Didn't know that, of course, when I wrote the opinion and published it. But as you know, the practice when they do a grant and review is the case is automatically depublished. So when the Supreme Court came out with its opinion, my staff attorney came in to see it and said, "Have you seen the Supreme Court's opinion?" And she said . . . . And I said, "Yes." I said, "You know," I said, "I thought it was a really good opinion." And she said, "Well, it ought to be," she said, "You wrote it." And I realized when I went back through and I compared the two opinions, the Supreme Court had basically taken my opinion and everywhere I had said, "Our Supreme Court has said," they substituted "We have said." And it literally was chapter and verse what I had written, and they had substituted that into the lead case and then . . . . And that was fine, but to add insult to injury, they then directed that in my case, which came back on remand because of the depublishing – of the automatic depublishing – that I cite their case! ***[laughs]*** So I thought, "Well, it's fine if you take my case, but not, you know, don't take my case and make me cite myself.

But, you know, it's like anything else. At first an appellate court judge, I think – new appellate court judges – become very intimidated by the Supreme Court. And to be honest with you, any appellate court judge worth his or her salt can write an opinion that will not get reviewed by the California Supreme Court. If your just . . . whole purpose is to avoid getting reviewed by the California Supreme Court, it's not that hard to do once you learn the process. I never looked at my job as like that. I looked at my job as being one of those people that expressed a point of view for consideration. Maybe everybody didn't ***agree*** with my point of view, but it would influence . . . I made you think about it, and it might influence the way you react to something. And it didn't bother me that, you know, four justices on the Supreme Court disagreed with me, because my colleagues agreed with me, and as far as I was concerned, they were just as smart. It . . . . I viewed it as my job was to help stimulate the thinking of the Supreme Court and to put something out there. And I did. And I had various cases that I was very, you know, proud of. You know the evolution of the process. I mean, I had one case that was depublished, and the following year the Supreme Court took exactly the same point of view that was expressed in my opinion! They just weren't ready to handle it. And I learned that, you know, they do their job, I do my job, and it's not personal. So I didn't take it personally.

George Nicholson: That's another commonality with you and Puglia, and that's patience.

James Ardaiz: Well, patience has never been one of my virtues according to my wife, my mother, and most people that know me. It's more like acceptance. I accept the role.

George Nicholson: Well, either acceptance or patience, both you and Puglia had it when it came to the issues you just discussed. The other categories of your writing besides your appellate work – which is beyond belief, I 1:55:41

think, for most people . . . . The experience that you've just described where the Supreme Court literally book-and-paged your text from that opinion about the standard of proof as to voluntariness, was it, of a confession . . . ? I know you didn't do it, but it would be interesting to have taken that experience back before your two high school English teachers to allow them to see the promise that they had found in you when you were just a little guy, really. It's too bad we can't do things like that for teachers from time to time.

You also wrote the three-strikes law, which to some extent brought you some grief and criticism. But you worked with a man named Mike Reynolds. Who was Mike Reynolds?

James Ardaiz: Mike Reynolds is a resident of this community; he's a photographer. His daughter was brutally murdered. And he was friends with my mother, and my mother asked me to go and talk to Mike. He wanted to talk to me about things. And so ultimately, honestly to accommodate my mom, I went and talked to him. And I found a man who really wanted to see something positive come out of the process. He's a remarkably optimistic and positive individual. And so one thing led to another and he asked me, "If you could write a law that reduced crime – that would actually reduce crime – what would you do?" And so I had actually been thinking about it, and I provided the structure of what was . . . would become the three-strikes law. And, you know, it was an evolution of my thinking about incapacitation of a target group of people, and using sentencing as a weapon to effectively target those who were career criminals who represented the greatest danger to the community. I put that structure together; the Attorney General, Dan Lungren, became involved; the law was written. When people say I wrote the three-strikes . . . what I did was, I wrote the structure of the three-strikes law, that's what I did. And, you know, then I kind of drew back into the background. I mean, I wasn't interested in becoming the face of the three-strikes law. I was a judge. I wasn't concerned about, you know, the ethics of it. I was . . . . You know, judges participate in legislation all the time. But what happened was the three-strikes law just emerged into this ***explosive*** issue in California. And then the . . . . You know, people said, "Well, this law wasn't written by a wedding photographer." But it was Mike's energy and it was his commitment that got that law passed. And so ultimately it was disclosed that I was one of the principals behind it. And it did cause a great deal of problem for my career because, of course, there were ***huge*** divisions with respect to the three-strikes law. I mean, conceptually it was different than anything that had been done. And it completely revamped the way judges sentenced; it completely revamped the way we would approach incarceration. It was direct; it was written in such a way as to essentially force certain results. And so it was very controversial. And ultimately . . . . There was controversy even within the judiciary. And ultimately I was heavily criticized by certain factions for it, I was praised by other factions.

George Nicholson: ***[coughing]***

David Knight: ***[inaudible]*** 2:00:21

James Ardaiz: So I was, as I said, heavily criticized by some factions, praised by other factions. Pretty much retreated behind the walls of the court and didn't say anything. I mean, other than I said, "Yes, I did what I did. I'm not sorry. And I believe in what I did, and I think time will show that it will have the effect that I predict."

George Nicholson: ***[coughing]***Go ahead.

James Ardaiz: So . . . . And I think time has shown that that's true. But the . . . at the time, I think it made me a very controversial figure in the judiciary, and for judges controversy is not something that you want to seek. And it was a difficult time for me. For my family, for me.

George Nicholson: When you said judges can be involved in legislation, initiatives – despite the fact they go to the voter rather than elected legislators – it's part of the legislative process. And so when you made that comment, it is traditionally part of it. And despite this controversy and criticism you're talking about, there really was no way – I suspect and believe myself, from experience with legislation – that there was anything other than personal grief that could be inflicted on you for it. And obviously nothing was, because you finished out your career and retired.

James Ardaiz: I did, but, you know, I was at one point considered for the Ninth Circuit, I was considered for other judicial positions, and every single time it would come up . . . . I never was sorry. I really feel that three-strikes has saved a huge number of lives, a huge number of women from being raped, and children from being molested. And I'm confident of that. If all I ever accomplished in my career was saving people from being murdered or from being raped, well, you know what, then it was a good day. That's kind of how I look at it. So I don't regret it. It's a point of pride with me. I don't talk about it that much, but it's a point of pride with me, and I'm disappointed at what I see now as the . . . I consider them disingenuous and dishonest attacks to attempt to revise the three-strikes law. I think it will cause crime to go up, and I think it will hurt people. And I honestly am at a loss to understand why you would want to do that.

George Nicholson: You have . . . . You've had a long relationship, apparently . . . . And I'm saying that as a surmise on my part, premised on two things that I know: One is, you've gotten an award – a Distinguished American Award from the Japanese-American Citizens League – for your service to that community in helping them obtain a memorial for a World War II detention site. And you have written, as I recall, a historical novel about the internment.

James Ardaiz: Yes. Mm hmm.

George Nicholson: Am I right so far?

James Ardaiz: Yes. Uh huh. 2:04:06

George Nicholson: In a nutshell, how did this . . . how did your relationship with that community bud and evolve?

James Ardaiz: It evolved from me writing a speech about the judiciary and the failures of the judiciary. And, you know, it's easy to be a judge when the . . . when you don't have to make a hard decision. It's when you have to make a hard decision, one that you're going to be facing down the community and the popular opinion and popular emotion, and that's when it's hard to be a judge. When you know there's going to be editorials written, and you know you're going to walk in to a restaurant and people are going to see you and they're going to point your finger at you. Just like it was with three-strikes, and I walked into a room and my little boy at that time – now a grown man – he turned, he says, "Daddy," he says, "Everybody's looking at us." And I said, "No, son, everybody's looking at me."

And the . . . I looked at the . . . I wrote about the ***Korematsu*** decision, which in my opinion was one of the . . . coupled with the ***Dred Scott*** decision were probably the two greatest acts of injustice by the American judiciary. And I talked about, you know, the ***Korematsu*** decision and why it happened and what the failings were, and the opinions of Justices Murphy and Jackson, who were, you know, really great men. And I became very interested in how it happened – the internment of Japanese in World War II. And I started reading, thinking about it, and eventually started writing about it. And studied it to a point where I probably would be . . . you know, people considered me to be an expert in that area. And then spoke to the Japanese-American community and then became very involved in efforts to remind people of what happened – and part of that was the memorial at the detention center at Pinedale here in this community – and to speak about those men and women. And, you know, I think it's really important that, you know, we remember our successes as a nation, but I think it's equally important that we remember our failures. And it allows us to recognize what we shouldn't do and what we shouldn't let go of. Every country has done bad things. Every country has made mistakes, no matter how well intentioned. But when we interned the Japanese, and the reasons that we used and the process that we engaged in, we did something that shamed our country. And that's what I wanted to write about. Why. And I wanted to write about the people. So . . . .

George Nicholson: You have one other . . . .

James Ardaiz: And in case you haven't noticed, I'm not Japanese. So . . . .

George Nicholson: It's obvious.

James Ardaiz: ***[chuckles]***

George Nicholson: I have one other thing I want to talk to you about, but I want to try to save it for last and take up most of the remaining time – which will be 15 minutes. It's the Charles Ray Allen case.

James Ardaiz: Clarence Ray Allen. 2:08:04

George Nicholson: Clarence Ray Allen.

James Ardaiz: Mm hmm.

George Nicholson: And the article you wrote in the ***California Lawyer***, and the book you've written that'll be published in December.

James Ardaiz: Yeah.

George Nicholson: But before I do, and in the most brief fashion, one of the descriptors I would use in encapsulating your career would be "troubleshooter for the Chief Justice." You did one related, obviously, to elections – judicial elections. You did another related to – putting it in lay terms – an institutional . . . by whatever techniques and skipping whether it's the lawyers, the system, or what. A bill came to the taxpayers by having the taxpayers fund lawyers for sitting around doing their homework by simply reading the advance sheets, which are law books. Both of these resulted in substantial improvements to the system. You've had others. When the judiciary went through a merging process, taking the trial courts from the county governance process and folding them into the state, the Chief Justice called on you again in two instances. One was to deal with the Task Force on Trial Court Employees, and the other was the Task Force for Making a Record. Can you just in a . . . . Is it possible to cover either of those in a capsule, or . . . .

James Ardaiz: Sure.

George Nicholson: Okay.

James Ardaiz: The Task Force on Trial Court Employees grew from the consolidation of the courts and trial court funding. The Legislature required that the judiciary address three aspects. One had to do with the process of the exchange of buildings, courthouses, that type of thing. One had to do with the funding process. And one had to do with the personnel system. And in order to secure trial court funding for the courts, the most critical aspect was to secure the agreement of all of the employee groups in the courts in California because they had, of course, tremendous influence with the Legislature. ***My*** job was to gain agreement from the 58 counties, the court administrators, approximately 120 unions, the state, and the trial courts to create a new personnel system for the trial court employees in California in order to secure trial court funding. That was my job. As I said at the time, when the Chief asked me to do it, I said, "I finally realized you don't like me very much, do you?" ***[laughs]*** You know, that was the toughest job I ever had. It required almost two years, ultimately, of negotiation, but in the end I got a unanimous agreement from the unions, from the counties, from the courts, from the state – without any increase in state costs. And I'm incredibly proud of that. Crafted the legislation – the largest legislative package passed in California. The President Pro Tem of the Senate, John Burton, personally carried it, and it passed through unanimously through the Legislature. And as a result, we were able to get trial court funding stabilized in our court system in California. So from an administrative 2:11:55

standpoint, I consider that to probably be the most important thing that I ever did in terms of the system of justice and administration in California. And I was grateful for the opportunity, and I was extremely grateful that we were able to successfully do it.

George Nicholson: You also served on the Judicial Council itself, and I believe at one point was chair of the Executive Committee?

James Ardaiz: Yes.

George Nicholson: Which is the governing committee for . . .

James Ardaiz: Yes.

George Nicholson: . . . effectively for the state of California . . .

James Ardaiz: Yes.

George Nicholson: . . . judiciary. As a result of many things, in 1999, I think it was, the Judicial Council – the state judiciary – named you Jurist of the Year. There's one Jurist of the Year, and that's for leadership and administrative distinction. And I would add to it, despite your reticence and your discomfort, patience and wisdom, prudence, hard work, and a degree of knowledge that exceeds most, if not all, the rest of us. And so, what the judiciary did that year was to recognize you were, I believe, the single most influential and important judge in the state, insofar as the judiciary was concerned. What was your reaction when you learned you won that award?

James Ardaiz: Well, I think that's a very humbling experience. I had never thought about that. When I found out that I had . . . . Honestly, I did not even know I'd been nominated. I just found out that I had been named. I think, if anything, what we strive for is the respect of our peers. For me, that's what that award meant. It's still, in terms of ***awards*** that I've received, it's still the most important and meaningful award that I've ever received. It's . . . . You know, I think it . . . for me, it means that what I did meant something. So I guess that's the answer. I was glad that the people that were important to me in my life got to see it.

George Nicholson: ***Judicature*** has editorialized that judges must accept primary responsibility for reaching out to the public, and they must recognize they are effective communicators and educators. The California judiciary has adopted a Standard of Judicial Administration, 10.5, in which it has become a judicial function to engage in court-community outreach, education, and so on. You've been an educator, in and out of the law, all your life. The Fresno County Young Lawyers named you the mentor . . . the leading mentor . . . the Blaine Petitt Mentor, and gave you that award. Hastings, your school – your law school – found you to be the Alumnus of the Year at one point. And I think you have been a mentor to people around you all your life, even beginning with the English teachers. To some extent, you were a mentor in inspiring them to be better teachers. What did it mean to you when you won those 2:15:51

particular awards, establishing – in a different way than the Jurist of the Year – that people looked to you for guidance, leadership?

James Ardaiz: Well, I think the simple answer is that it was a humbling experience. I honestly never . . . . I can say, in all sincerity, that I've never done anything in my life for the purpose of getting some kind of award. I've always done things because I thought they needed to be done. Some of that resulted from bringing the California Supreme Court to what has now become accepted practice of bringing the court around the state. Well, I was able to implement that program and get the California Supreme Court to come to the Court of Appeal. And as you know . . . . As a matter of fact, I forgot – you sat on that . . . on a case with the California Supreme Court, which was their first appearance in terms of televised appearance. We got a statewide televised appearance, and you helped with that with the California Channel, exposing the California Supreme Court to the public at large – people getting to see it. And they . . . now this has become kind of a recognized and accepted thing. So as a result of that, you know, some of these awards came. To me, what was valuable about it was that we did it. And that we . . . that kids got to see it. And, you know, when I told the Supreme Court, "Okay, I have this idea, I want you to be televised," you would have thought I asked them to appear naked in Union Square! And . . . . No disrespect intended. And then when I said I was going to allow high school students to ask them questions, this was a huge point of controversy. I mean, to have people . . . . "You mean, kids ask us questions?" Now it's become something that they look forward to. I'm very proud of that. When I see that, I think, "Oh, we did a good thing." That means a lot more to me. I mean, I appreciate the recognition, but the existence of those programs means a lot to me.

George Nicholson: Because I'd been there with you, I know that your humility is obscured a little bit additional, and that is ***[coughs]*** – excuse me – you have a PBS station, and you arranged with that PBS station, I believe, to televise it . . .

James Ardaiz: Yes.

George Nicholson: . . . and then you worked with the bar in your various counties – your nine counties. In a nutshell, what was that aspect of that first Supreme Court appearance? What happened at those high schools?

James Ardaiz: Well, my whole objective was education and public outreach. And I thought if we could have the California Supreme Court depicted for people to see on television, and we will create synopses of the cases for the learning experience of high school government classes so that they can debate these issues, then they can watch the Supreme Court listening to the case and some of their own peer group can stand up and actually ask a question of the California Supreme Court, this'll be a tremendous educational experience! And it turned out to be a valuable educational experience. I mean, it was rewarding for me just to see these kids. It was rewarding for the judges. It was worth every bit of the work setting up the program, and the program that we set up ***is*** the standard program now that's used by the various courts. 2:19:35

George Nicholson: It's the prototype.

James Ardaiz: It's the prototype.

George Nicholson: But there . . . . Tweaking it a little, I believe – if I recall this correct, and I'm just trying to remind ***you*** – you had a lawyer and a judge, I think, in auditoriums – high school auditoriums up and down the state.

James Ardaiz: Oh, I did, yes.

George Nicholson: And these . . . .

James Ardaiz: ***We*** did, excuse me.

George Nicholson: This PBS broadcast was beamed into those high schools.

James Ardaiz: Correct.

George Nicholson: So while you had a class or two or three in the courtroom who got to ask the questions during the breaks between the three cases, and they rotated numbers of students and classes in and out ***[coughs]***, excuse me, there were hundreds if not thousands of students and these lawyers and judges up and down the Ninth . . . .

James Ardaiz: There were ***thousands*** of students around the state who were able to watch the live feed, look at the cases. The curriculum was structured. So from . . . . You know, I got a lot of letters from teachers and students about how valuable it was. I got members of the community that said they stayed home and watched; they'd never ***seen*** the California Supreme Court. And actually, you know, they said it gave them a lot of pride when they actually heard the members of the court. These became real people who actually cared about them. And I think that was a valuable thing.

George Nicholson: But there is a tiny missing link, and that's Tuolumne County. Your PBS station, as I recall, didn't reach Tuolumne County?

James Ardaiz: That's true.

George Nicholson: So let's just leave it at my description. You called Sacramento, and you wanted to get the PBS station up there – which reached Tuolumne County – to somehow hook up to this. And through that process the California Channel became involved. And so not only did you pick up little tiny Tuolumne County – not your largest county – but every county in the state through the California Channel. And every high school in the state had notice, through the state Department of Education, that this broadcast was there. And while I don't think you or I or anyone else can say how many high schools throughout the state outside the Fifth Appellate District did exactly what you did in those high school gymnasiums where the teacher and a lawyer . . . a judge and a lawyer, working with hundreds and thousands of students. It's like the glass entrance to your door, Jim, opening onto and showing the 2:21:56

central chair behind the granite façade behind the bench. You actually opened, for the first time in the history of California, the entire Supreme Court process to every high school, whether they used it or not. And I've never heard you ever speak of that since until I brought it up today. And when you mentioned "it's not the awards, it's the doing," one of the things you said in one of the profiles that's done every 8 or 10 years on judges by the ***Daily Journal*** . .

James Ardaiz: Mm hmmm.

George Nicholson: . . . is that you never really took your self-definition from the awards you got, or the titles you held, but from the things you did. And as you reflect back on these things and I provoke them out of you thinking about it, speak of the concept and not me lauding you – and I'm not patronizing you – what is your view of the idea that one man, or one woman, ***can*** make the difference as a way of looking at life?

James Ardaiz: I think that any person who does the best they can with the gifts they have can make a difference in the lives of other people and in their community. I think that if you see something that needs to be done, and you have an idea of how to do it, then you shouldn't be sitting around complaining if it doesn't get done. And I think, to me, if I see something that I think needs to be done and I have an idea, then I push that idea. And, you know, not every idea is successful, but I do believe that we've been able to make a difference in a lot of areas. And, you know, one talent that I do have is I – you know, I'm full of ideas; some people will say I'm full of a lot of things, but I'm full of ideas – is I can . . . I have friends and colleagues that I can marshal, that believe enough in those ideas that they're willing to put in the effort to help me. So not a single thing that you talked about today is the result of my efforts. It's the result of a lot of people who believed in the idea and came together, and we were able to put it together. And I always recognize that. I take . . . . I mean, that's a matter of pride with me, those people. And I value that. I'm very fortunate, and I've had incredibly good people who have joined me in these things, and that's how they've happened.

George Nicholson: Do you think . . . . You've described yourself as a person of ideas; that's the way I know you. Do you think it's safe to say you win some and lose some, but when it's all said and done that at least three of every ten of your ideas gets done in a positive and productive way?

James Ardaiz: I think that I am very fortunate that a number of the things that I came up with in terms of ideas have ultimately been evolved into – with the help of many people – into programs today that we take for granted. And for me, I can look back at that and say that's a good thing. And I miss the opportunities of the judiciary because of the impact that you can have. I miss being with my colleagues – the smartest and most committed group of people I've ever been around, my fellow judges. The . . . . You know, in that role you just have a larger voice. And I . . . . You know, I'm a fortunate man, I really am. I mean, I look around, I look at the building, I look at the personnel systems, I look at matters of administration that nobody ever thinks about how they happened, and I see . . . . And I encourage new judges to go out there and, you 2:26:44

know, if it's broken, fix it. If it's not broken, make it better. And that's a good thing. And don't think your job is confined to just sitting in your office. You're part of the system of justice, and it's part of your job to make it better. And that's, you know, that's the trust that you've been given. And that's just how I view it. And honestly I don't think about it a lot. Never have.

George Nicholson: The reason I used the count "three in ten" is if you bat .300, you get three hits in every ten at-bats and you play major league baseball twenty years, you almost invariably wind up in the Hall of Fame.

James Ardaiz: ***[laughs heartily]***

George Nicholson: The judiciary doesn't have a Hall of Fame, but knowing you for all the decades I've known you, and knowing of your work, I personally guarantee you hit at least .300 with your ideas, and if we had a Hall of Fame you would be in it.

We're down to the final end here, and I've got . . . I've got to touch a couple of things because you're so different and you're such a complete person. Tell us – in a moment, if you can – you're an artist. You're an artist in two respects to me, as a non-artist. One, you have the ability to paint. You also know art and collect art. Describe yourself, very briefly, as an artist and as a collector.

James Ardaiz: Well, as an artist, I think generally speaking people describe me as a realist. As a collector, people would say that I like Impressionism. So I guess I'm a realist who doesn't see things in a way that allows me to produce an impressionistic painting, and I'm a realist who doesn't exist in an impressionistic world. I view the world in a very real sense, but I appreciate those that see the world in an impressionistic sense as an artist. If that makes any sense. Maybe it only makes sense to another artist, I don't know.

George Nicholson: I think it's a very surprising answer to me, because you have answered it in the same way you've answered much here today, and that is, you've described it from your mind and heart rather than from the point of view of an engineer or a mathematician.

And the second thing is architecture. I had wanted to spend more time on this, but we got in the spirit of this place. And in terms of wedding architecture and art, this is an extraordinary courthouse. It's not like any courthouse I've ever seen. And it's that way because of the way you designed it – the materials you used, the design you've already described, and so on. But this building is how many floors, Jim? Four?

James Ardaiz: This building is three floors, . . .

George Nicholson: Three floors.

James Ardaiz: . . . and . . . .

George Nicholson: And you have filled it with what? 2:30:06

James Ardaiz: Well, we filled it with texture, with things that evoke the natural history of our community, we filled it with photographic art, we filled it with sculpture. But I like to think of the building as an art piece. And it was designed as an art piece. Art evokes emotion., It should tell a story. Effective art tells a story. When you look at something and you wonder why you like it, it's because you're looking into it and you're seeing a story. When you look at this building, I want it to tell the story of the justice system and of the community in which this building resides – the greatest geographic landscape in the world. It's been my good fortune to be part of that. And I mean, you know, we have the . . . Yosemite, we have the trees of Sequoia, we have the, you know, we have Kings Canyon, we have Mineral King, we have the greatest agricultural region in the world. And we have this incredible justice system. And I wanted people to look at this and sense that. So that's . . . to me this building is an art piece. And that's what I . . . . The only bad thing is people don't go behind the walls of the courtroom and see everything else that's here. So, I know, I know, it's a point of pride with me, this building. But I love the fact that when people walk here, the staff will say, "You know, I'm glad every day I walk in here and I feel good." Well, that's what a building should do.

George Nicholson: Last two things: Your law firm – the place where you work now –

James Ardaiz: Yes.

George Nicholson: You've known this law firm for a long time.

James Ardaiz: Yes.

George Nicholson: What's unique about that firm? What sets it apart – makes it unique and special, made it something worthy for you to join?

James Ardaiz: Worthy for me to join. Well, there's really a very simple answer to that, and it's this: You know, when I came home to this community – I'm of Spanish/Basque descent – when I came home to this community, I couldn't get a job in any firm in this community. The firm that I went to was the first firm to hire a woman – was actually one of my classmates from law school. The first firm to hire an Hispanic. The first firm to actually take an aggressive and . . . role with respect to the larger community. And I always admired that and respected that. And so my attitude was, you know, that's where I want to go. That's no reflection on anybody else; it just has to do with why I wanted to go there.

George Nicholson: It's you.

We're going to have to play a little baseball now, because I want you to do something. This is the windup of this interview. I've got in my hands a book. It's called ***Hands Through StoneHow Clarence Ray Allen Masterminded Murder From Behind Folsom's Prison. Walls*** I'm going to throw it over to you, and I would like you to read the first paragraph of the Epilogue . . . of the Prologue, the first paragraph of Chapter One, and the last paragraph of your Epilogue. We're just going to listen to 2:34:15

you read them a minute, and then stop and I'd like to ask you a closing question.

The first paragraph of the Prologue.

James Ardaiz: "July, 1974. Fresno County, California. The great San Joaquin Valley of California spreads itself out into foothills that rise against its edge. In the heat of summer, they glow golden by day, and by night they shine silver on spring grass dried by the sun. The yellowed blades sway in summer breeze, their swishing music lost by day to the sounds of birds, rustling leaves, and man's traffic. It is by night that the symphony of the grass plays out to those who listen as the air moves gently. But on some nights the air lies still. On those nights, there is only silence. On those nights, the only sound is made by the hunters of the darkness."

George Nicholson: The first paragraph, Chapter One. You've probably never seen this book before. It's going to be published in December.

James Ardaiz: "Six Years Later. 7:30 p.m., Friday, September 5, 1980. It was almost closing time for the small country store. The last customers had left or were leaving with what they needed for another day without taking the 20-minute drive into Fresno, the urban city whose lights were beginning to glow in the distance. That is what Fran's Market was, a convenience store for people who wanted life's necessities and were willing to do without twelve choices for the same product, accompanied by background music. For that, they needed to go to Fresno."

George Nicholson: Last paragraph of the Epilogue, beginning at the marked point.

James Ardaiz: The last paragraph?

George Nicholson: Yeah.

James Ardaiz: "I walked through a small room in Fran's Market awash in blood. And now, twenty-six years later, in another small room inside stone walls, I saw it through to the end. Now it was finally over."

George Nicholson: I want to make a comment about that book, and then ask you the general question. All the years . . . . This book is coming out in December. Wrapped up in this book, in the language of this book, is the heart and soul and experience of a writer – somebody who, in high school, was told by their English teachers that he had a gift. That first paragraph of that Epilogue – which reads on from there, with the same kind of evocative, thought-provoking prose – that first paragraph of Chapter One leads you into a context of immensity that average people never endure, thankfully. And then finally, the idea of entering and exiting 26 years later the picture that you portray in this book is something that even those of us that have lived this profession as you have and been prosecutors as you have . . . . I don't know anyone else that effectively handled multiple murder in the same case from A to Z, from investigation through the actual execution. You saw it all. How would you wrap up – try to inform the viewer on this video – try 2:38:09

to wrap up what the case was, how it affected you, and how you think it turned out.

James Ardaiz: As a prosecutor, you promise people that nothing will ever happen to them if they cooperate with the system. You depend upon that. Witnesses are integral to the system; you need witnesses. The assault upon our system of justice that took such . . . wreaked such vengeance on people who simply did what they were supposed to do as witnesses – the fact that I had promised that nothing would happen, the fact that people paid with their lives – the system of justice simply was assaulted in this case in a way that is almost hard to . . . . It's something I can't encapsulate. That's why it's in a book. But in the end, you know, I've devoted my entire ***life*** to the justice system – my entire professional life, 30 years as a judge. I believe I'm the only judge in California ever to have witnessed an execution. I've prosecuted murder cases, I've asked for the death penalty, I've imposed the death penalty as a judge, I've watched it as it was . . . a man was executed. What I wanted to write was a book that allowed a person to see that whole panorama.

It's not . . . I'm not proselytizing. I don't take a position for or against the death penalty. I just want people to understand the complexity of it and the impact on the lives of the people involved in it. And I wanted people to understand how hard people inside the justice system work to secure justice and how long some of them have to work. And I wanted people to understand that . . . the suffering that people go through – as a ***result*** of the system, in some respects. You know, this book . . . . I've had some people put this book down after they've . . . and they've called me because what you've held up is what is called the "advance." It goes to critics. And they say they cried at the end. And I think, you know, well, I mean, that's not a bad thing. I mean, I'm not trying to make people cry; I'm trying to make people understand. I think if you read this book, I think people will have a very real sense of what it takes to prosecute a murder, to investigate a murder, and to do what has to be done to see that justice is carried out, even if that's an execution. And for me, it was keeping a promise that I had made to people. And I can't honestly say that there's any joy in me with respect to this book, from the beginning to the end. It's just that I think it allows people to see a perspective – and a detached perspective. And I hope people . . . you know, if, you know, people read it, I hope that they walk away saying, "I didn't understand that that's really the way it is." And I hope I've managed to convey that. That's really . . . . You know, that's about all I can say.

George Nicholson: Well, Jim, I began this conversation with you earlier in the day, and I made a wisecrack to you and to the Clerk of this court that I've done several of these interviews, and I talk to everybody that does them because I'm on the committee. You're a very difficult interview because you're larger than life. You're an immensely decent, loving, and able human being. But I feel . . . . I regret that I'm not up to the task of interviewing you – that you've been up to all the task in your life – because there's so much more to you than I was able to allow you to portray in this videotape. But my hope in having done this with you is that the scholars of the future who choose to look at the 2:43:37

California judiciary will either stumble on or be directed to Jim Ardaiz – the video, your various publications, and in particular your published appellate opinions – and come to realize that, like Bernie Witkin and Prosser and all the other . . . Bob Puglia and Pauline Hanson, all the other giants in our profession, you walk on a different level than the rest of us.

James Ardaiz: Well . . . .

George Nicholson: And I'm not trying to embarrass you. I'm not speaking entirely to you; I'm speaking to people that look at this after we're gone. When scholars take a look at us to see who is worthy of further thought and further work – perhaps articles, books, or whatever – I'm saying as a voice from the grave when they do that, "Pay attention to Jim Ardaiz. He's a unique individual human being who has on so many occasions – not once, twice or a dozen times – proven that a single man can prove to be the difference." And if you were pitching or hitting in the major leagues, you'd be in the Hall of Fame and live on in posterity to the millions of baseball fans – which, Jim, I remind you, we don't have as judges; if a hundred people know us after we're gone, we're lucky. So on behalf of the judiciary and chairman Judy Haller of our committee and the California Appellate Court Legacy Project, thank you for your time. And . . .

James Ardaiz: Thank you.

George Nicholson: . . . Jim, thank you for your work.

James Ardaiz: You've been most kind. And I hope that I'm a better judge than I was a baseball player. ***[both laugh]***

George Nicholson: Well, I think all of us that didn't make the major leagues feel the same way about whatever it is we've done.

James Ardaiz: But I never hit a home run in a baseball stadium like you did.

George Nicholson: Close this thing down before . . . .

Duration: 166 minutes
October 18, 2012