David Knight: . . . title when you were on the bench.

Rodney Davis: My name is Rodney Davis, and my last name is spelled D-a-v-i-s. And when I was on the bench my title was Associate Justice, the California Court of Appeal, Third Appellate District.

David Knight: Wonderful. And Justice Cantil.

Tani Cantil-Sakauye: Today is July 15, 2009. Good morning and welcome. I have the honor of interviewing recently retired Associate Justice Rodney Davis of the Court of Appeal, Third District. After approximately 27 years on the bench, from municipal court to the Court of Appeal, it is high time to interview this man. The interview concept is the brainchild of the Judicial Council and the Administrative Office of the Courts. They have instituted the Appellate Court Legacy Project, which includes an oral history of the appellate courts via interviews of retired justices. I am Associate Justice Tani Cantil-Sakauye of the Court of Appeal, Third District, and it's my pleasure to interview my former colleague retired Justice Rodney Davis.

Justice Davis has been described by colleagues and lawyers as a serious academician, scholarly, very thoughtful, and one of our brightest stars.

Good morning, Rod.

Rodney Davis: Good morning.

Tani Cantil-Sakauye: Can . . . . I want to talk to you about your early years, before college. Where and when were you born and raised?

Rodney Davis: I was born right here in Sacramento, California, and . . . at Sutter Maternity Hospital, which, interestingly enough, both my boys were born in the same wing as I was. And that was February 14 – Valentine's Day – 1949.

Tani Cantil-Sakauye: How old are your boys now?

Rodney Davis: They are 24 and 28.

Tani Cantil-Sakauye: Tell me about your family: your father, your mother, any siblings.

Rodney Davis: Well, I have two sisters: Karen Mier and Marlene Wagner. Both reside here in the Sacramento area. And my parents were Lester Thomas Davis and Pauline Lillian Vakoch.

Tani Cantil-Sakauye: Did you have any primary lessons or philosophies that you learned from your family?

Rodney Davis: Oh, many. 2:42

Tani Cantil-Sakauye: Any that you'd like to share that stand out or that guided you throughout your life and career as a judge?

Rodney Davis: Well, I was a . . . what probably can accurately be called a political kid. My father, Lester, was a state legislator representing the far northern part of California in the state Assembly. And my . . . . So when I was born, he was a state legislator. And he died, when I was three years old, of a stroke. Our home in the district at that time was in a little railroad town: Portola, in Plumas County. My dad had been an engineer for the Western Pacific and . . . before he was a state legislator, and active in the labor union for enginemen and firemen, and active in county politics. And then that's what led to his career in the state Assembly. He served for six years before he died. And his . . . . This was his second marriage. He had . . . . He was married before. He was about . . . you know, considerably older than my mother at that time. His first wife died, so he was a widower. And actually, they met in kind of a fun way, and that is . . . . He was a state legislator; their first date – believe it or not – was to Folsom State Prison.

Tani Cantil-Sakauye: That's a memorable first date.

Rodney Davis: Yes. Why my mother ever, you know, elected for the second date is a family mystery after that. But the authorities at Folsom State Prison back in the mid-40s agreed to have a tour for state legislators, so my father – arguably not much of a romantic – decided to ask this beautiful young woman to accompany him on that tour. And they . . . he was, from what our family said, just immediately star-struck over my mother, and from that point became a total pest. She had divorced her first husband in Nebraska, where she was a native, during the 30s. It was a, you know . . . . Late 30s. It was, you know, a time when the country was financially in desperate shape. Her husband abandoned her and their two little daughters, my sisters, and so she decided to strike out on her own. And while her entire family was in Nebraska, she decided to come to California, as so many people do, to start anew, and . . . .

Tani Cantil-Sakauye: She seems like she had an adventurous spirit.

Rodney Davis: Yeah, she was quite a remarkable woman, as I'm sure we'll get to, because she was by far and away the most important person in my formation as a young man and a child. She had a number of jobs when she was a young woman in Nebraska. She was raised on a farm. She was a second-generation American, believe it or not, raised . . . born and raised in a small Czech-American community, Verdigre, on the South Dakota border in northeastern Nebraska. She did not speak a word of English until she got to school; she spoke Czech. The whole family did. And, you know, one of my favorite pictures of my mom is this wonderful shot of her depicted as the 7:18

Queen of the Cossacks. They had a local . . . . Like the Italians will have the Dante Club . . .

Tani Cantil-Sakauye: Oh, yes.

Rodney Davis: . . . or the Sons of Norway? Well, there it was all the Czechs had a fraternal organization referred to as the C.Z.B.J. Lodge, and there she was Queen of the Cossacks.

Tani Cantil-Sakauye: How old was she when she was Queen of the Cossacks?

Rodney Davis: Oh, I'd say in her teens. And in a family of brunettes, she was . . . . In all the family pictures, she was . . . had this bright blond hair, so she really stands out. But she was . . . . She had a job during the 30s as a . . . you know, in a chicken factory, where she . . . . Actually, she got . . . she told me she had developed the skill of being able to pick up eggs with both hands, putting them in her fingers and pulling them off the line and putting them in cartons. That was quite a deal. Apparently management, you know, realized that they had somebody special, and in rather quick order they elevated her to a mid-management position. But that didn't last long for my mom. She . . . . They . . . . The workers went on strike. She had elected . . . . Despite the fact that she was the only source of income, trying to raise these two small girls, she wouldn't cross the picket line.

So that job ended. She ended up taking a job as a housekeeper for a wealthy family in Omaha. That lasted until the husband of the family assaulted her, and so . . . unsuccessfully, but, you know, Mom decided that job was definitely going to have to end. After putting his wife on notice, she gave notice. And then she decided to go to work for the phone company.

Tani Cantil-Sakauye: Are we still in Nebraska?

Rodney Davis: Still in Nebraska, in Omaha. Still with these two little young girls. At one point she tells the story of being so darned poor that all she had was a couple of onions, which she just made soup out of for a time to get through. And she recalls lovingly about how, when she was just desperate to keep some sort of sustenance on the table for these two little girls, that her brother showed up out of nowhere with two great big bags of groceries and managed to save the day.

But she got a job with the phone company, and then that got . . . through that, she had the idea of, "Well, I'll transfer out to California." And that's what she did. After she got to California, she learned of a job working for Western Pacific as a dispatcher during the war. And so she was essentially responsible for clearing traffic for troop trains as they came through Stockton on their way to the Bay Area. And not 10:51

just troop trains, but also ammunition-loaded trains, that sort of thing.

Well, it was as a result of that job that she came in contact with somebody that was familiar with my dad, because they also worked for Western Pacific and knew him since he used to be an engineer and drive those ***huge*** trains that are down at the Sacramento Train Museum.

Tani Cantil-Sakauye: Your father drove those trains?

Rodney Davis: Yeah.

Tani Cantil-Sakauye: Oh, my goodness.

Rodney Davis: In fact, the Mallet – the ***giant*** train down there – he used to drive that.

Tani Cantil-Sakauye: So that's how they met – through the commonality of Western Pacific?

Rodney Davis: Right – a mutual friend. But hearing . . . my mom tells the story that she was understandably concerned about letting another male into her life after her bad experience with the husband that abandoned her. And so she . . . . When my dad finally proposed to her, she said she'd have to think about it. Which years later came to haunt me, because when I got up enough courage to propose to my wife, Susan – we've been married, now, for 34 years – I decided to take her up to . . . cross-country skiing and cut trail back into the country above Kirkwood Meadows. And what was going through my mind is that she'd give me some ambiguous answer like my mother did – kind of the family curse. I was so nervous that I actually took the wrong freeway trying to get up to Kirkwood Meadows.

Tani Cantil-Sakauye: Sounds like you were preoccupied.

Rodney Davis: Well, she suspected something was up, since I took the wrong freeway. But we got up there, cut trail, and, you know, wonderfully she said yes.

Tani Cantil-Sakauye: She said yes without hesitation.

Rodney Davis: Without hesitation, although she was probably thinking about it on the way up.

Tani Cantil-Sakauye: She was probably, yes, guessing what ***you*** were thinking.

You've described your mother. She sounds like a very interesting person. I can see how many of her qualities that you've described – her talent, her industriousness, her courage – you know, has trickled down to you. She was a 13:16

trailblazer in history, in time, and really against all stereotypes. So what was it like growing up in a household like that?

Rodney Davis: It was different. You know, this was the 1950s, when not that many women worked outside the home. Here my mother was, a widow. To get to that, that is, I think, a marvelous story that reflects of how much personal courage and grit that my mother had. She was in her early 30s, and I kid you not, she was absolutely stunning, the photographs of her. When my dad died, and the family, you know, we . . . they recently had purchased a house in Portola. That was at the time when the Legislature was only in session part time, so that's why I was born in Sacramento. It was during the time that the Legislature was in session.

Tani Cantil-Sakauye: How interesting.

Rodney Davis: They'd rent a place down here, and then after the session was over with, they'd go back home, which was in this small railroad town in Plumas County. And then . . . . So my dad unexpectedly died. There was no indication or suggestion that he was ill at all.

Tani Cantil-Sakauye: How old was he?

Rodney Davis: It was a blood clot. He was 47 years old, leaving, you know, these two young girls and me as an infant – just a load of debt, Mom unemployed in this small town up in Plumas County, and grieving. Well, my dad had, you know, died . . . . Oh, incidentally, one . . . a couple of aspects of his career that I think are still with us, in that he was . . . he carried the initial legislation for the creation of roadside rests in California. So there is a roadside rest dedicated to him up in Plumas County.

Tani Cantil-Sakauye: Very nice.

Rodney Davis: You know, one of the first that was actually built.

Tani Cantil-Sakauye: These are the rest stops that we . . .

Rodney Davis: The rest stops, right.

Tani Cantil-Sakauye: . . . pull off to and they have the vending machines and the restrooms and a place to walk around and walk your dog?

Rodney Davis: That's it, yeah.

Tani Cantil-Sakauye: Very thoughtful.

Rodney Davis: That, and the next time that you're behind a great big logging truck or truck of any size, and you see those flaps on the back of their rear tires to keep gravel from going up and . . . . 15:57

Tani Cantil-Sakauye: Cracking my windshield?

Rodney Davis: Exactly. That's my dad. You can thank him, too, for that.

Tani Cantil-Sakauye: His contribution to California . . .

Rodney Davis: Yeah.

Tani Cantil-Sakauye: . . . is meaningful, important, and practical.

Rodney Davis: So he died after the primary election, where he was, you know, the Democratic party nominee for . . . to be retained in his position. And he had a Republican opponent, and the general election was forthcoming. He died in May, so he appeared on the ballot in June, you know. Oh, now I recall. I take that back. He died in May. Now it occurs to me how quickly my mom had to move. And the ballot was coming up in June. So the Democratic party in the district, you know, wanted a candidate other than his name on the ballot after he had been deceased and did not want to, you know, essentially go to the general election having to sponsor or support a write-in candidate. So they held a special nominating convention and . . . in Burney, California, if you can believe that. There . . . . I believe there were four candidates to succeed my deceased father, and a delegation of district officials came and asked my mother to run. Well, there she was. I described earlier that they were . . . you know, the family was in debt, she had no job.

Tani Cantil-Sakauye: She's grieving. What year is this?

Rodney Davis: This is 1952.

Tani Cantil-Sakauye: Incredible.

Rodney Davis: And so she said yes. It was a hotly contested, bitter convention fight between these four candidates – three men and my mother – in a district that was cowboys, lumbermen, and railroad workers. And, you know, she prevailed over them and got the nomination. The Republican party then, you know, contested her right to appear on the ballot and filed a lawsuit. Well, first what they did is they approached Frank Jordan, who was Secretary . . . the Republican Secretary of State at the time in Sacramento, and said, "Frank, don't accept Pauline's papers. Force her to sue to get you to accept her papers." Because my mom had no money.

Tani Cantil-Sakauye: Mmm hmmm. They knew they would delay and cause trouble, and . . . .

Rodney Davis: Yeah. Or she'd have to cave in and acquiesce to Jordan's decision not to accept her papers. And my mother, at the time that my dad was a legislator, actually worked during the 19:14

legislative session as a secretary for other legislators. These were far more innocent times. And she knew Frank Jordan, and Jordan knew her, and Jordan told his own party's brass to . . . that he wasn't going to go along with it, that he was going to accept Mom's papers. So the Republican party then had to file a lawsuit against Jordan, with my mom as the real party of . . . in interest, contesting his decision to accept her papers from that convention and to go ahead and have her appear on the ballot. Well, again, Mom had no money to hire a lawyer, and former Attorney General Kenny came out of the blue. He was then in private practice in San Francisco, came out of the blue, contacted my mother, and said, "This isn't right. I'll take your case." The case went all the way up and was argued before the California Supreme Court. Now, think how quickly they moved on this thing!

Tani Cantil-Sakauye: Yeah. May to June!

Rodney Davis: And Mom prevailed, and she not only appeared on the June ballot but also was elected in the general election and then served for 24 years in the state Assembly. You know, with term limits, no other woman is going to come anywhere close to the longevity of her career.

Tani Cantil-Sakauye: I don't think any other person can be the subject of this storied history of how they even got on the ballot.

Rodney Davis: Oh, I know. I . . . . And, you know, I have photographs of her campaigning around the district – you know, this striking woman in high heels at the podium with all these old coot legislators on either side of her. What a . . . . It's quite humorous.

Tani Cantil-Sakauye: You had quite an early exposure to the Constitution, politics, the law, hardball politics, the courts.

Rodney Davis: Well, Mom . . . . You know, I was just a young guy, a young child, and as soon as the session ended, we would . . . you know, she'd pop me in the back seat and then she'd be campaigning throughout the district. You know, she . . . . It was the state Assembly. Every . . . . This was financial reality for my family, and that is the Legislature . . . the legislator's salary back in those days in the 50s when it was just a part-time position – right? – was incredibly modest and not enough to sustain our family. So Mom, you know, took every committee assignment that you could take because you got per diem when you were on committee assignments. And so she was traveling all up and down the state. We had a housekeeper that would look after my sisters and I, and then . . . while Mom, you know, made the Fish and Game meeting in Monterey and this sort of thing to keep additional money coming in. But every . . . . Then when the session would end, we would . . . . she'd pop me in the back seat and she'd 22:55

be campaigning around the district, going to all the county fairs and riding in the parades. In fact, here's a great story about that. Here I . . . . You know, when I was a little kid, I would sit in these convertibles in these county fair parades and, you know, my mom would be there in her white gloves, you know, in a business suit, you know, waving to the crowd. And behind us, in . . . at . . . in the Trinity County parade and in the Shasta County parade, would be the state senator riding a horse in a cowboy hat and Levis waving to the crowd, right behind us. And that was Fred Marler.

Tani Cantil-Sakauye: It was ***Fred Marler***??!!

Rodney Davis: Fred Marler, who, you know, became . . . I served with as a trial judge in the Sacramento Superior Court, and then later got an opportunity to serve on the Court of Appeal with Fred. So how strange was that, for me to sit there and recall with Fred, who . . . . You know, when I first came to the Court of Appeal, I thought, "You know, we don't see enough of one another." So I organized card games in my chambers during the early 90s, and Fred was one of those regulars who would come up and we'd play cards and . . . during the lunch hour here.

Tani Cantil-Sakauye: I had no idea you and Fred Marler go way back. He's the man . . . the senator on the horse. That's a great story.

Rodney Davis: Well, here's another "down Memory Lane" item involving the Court of Appeal. As I said, my sisters were from my mother's first marriage. And, you know, they were like eight, nine years old, I can't remember exactly – very young little girls – when my mom and dad married. And so I am . . . . When I was elevated to the superior court, I asked Bert Janes to . . . a former associate justice of the Court of Appeal . . .

Tani Cantil-Sakauye: Third DCA.

Rodney Davis: . . . Third District Court of Appeal, to swear me in, okay? So Bert, as he was, you know . . . . Bert always would go across the street and have lunch at the Sutter Club, right? That was one of the things that Bert loved to do. And so Bert invited me over to the Sutter Club for lunch, and we got over there, and Bert started to tell some stories. Well, Bert, you know – as you know, associate justice on the Third District Court of Appeal – before he was elevated to the Court of Appeal, he was the superior court judge of Plumas County. Now, that was at a time when Bert still flew this rickety little plane around our district, you know. And he lived . . . . His primary residence – although, you know, he had a place in Sacramento, he and his wife – but their "home," quote unquote, was still in Plumas County on a ranch outside of Quincy. Well, Bert says to me, "You know, Rod, your dad gave me my first job." I said, "Bert, you're kidding!" And he goes, "Yeah," you know, "I was from Portola." 26:29

Tani Cantil-Sakauye: Oh!

Rodney Davis: And he said, "Your dad, besides being a railroad engineer, owned and operated a beanery," which was Bert's expression for a little restaurant that served lunch. And he said, "Your dad gave me my first job as a pearl diver." And I said, "A pearl diver?!"

Tani Cantil-Sakauye: At a beanery??

Rodney Davis: He said, "Yeah, I washed the dishes." That's what he called it: a "pearl diver."

Tani Cantil-Sakauye: You need code to understand Mr. Janes.

Rodney Davis: I said, "That amazes me, Bert." And . . . .

Tani Cantil-Sakauye: Did you know your father had owned a small restaurant?

Rodney Davis: No, and much less the connection with Bert Janes. Well, there was another wonderful story about that. And that is, Bert says, "And I was a brand-new judge, and I presided over your dad's adoption of your two sisters."

Tani Cantil-Sakauye: Oh, how wonderful!

Rodney Davis: And he described what my sisters were wearing, all dolled up in these dresses, and the questions that he asked them. And isn't that something, that all those years . . . . So when I was elevated to the Court of Appeal, Bert was still handling the settlement program; he was then a retired justice. And, you know, we would . . . . It was fun. He was still considered essentially a part of the court, since he ran our settlement conference. So not only did I have an opportunity to serve with Fred – you know, this guy on the horse –

Tani Cantil-Sakauye: Absolutely.

Rodney Davis: – who was a state senator, but also Bert, who had this long, rich history with my family.

Tani Cantil-Sakauye: And it's really interesting, just the history of your adolescence and how it later, you know, is integrated into your adult life and how . . . and your profession. That's an incredible story.

Rodney Davis: You know, I think I had state government and public service just as part of . . . . It was almost part of my DNA, I think, as a result of . . . . It must have been.

Tani Cantil-Sakauye: It sounds like it. 28:37

Rodney Davis: Or at least, you know, environmentally induced public service. When I was a kid traveling around the district, my mother would . . . we'd play games. She would have me name all 58 counties in California. This is when I was just a little kid. I'd have to name every county seat in California. I mean, how many 10-year-old kids could name, you know, Markleeville . . .

Tani Cantil-Sakauye: None.

Rodney Davis: . . . as the county seat of Alpine County?

Tani Cantil-Sakauye: I'll just tell you: none. Did this also influence your sisters' careers?

Rodney Davis: Well, my sister Karen worked for the state Senate and later the Governor. And so certainly that was continued in that. My sister Marlene went in another direction – lived much of her life up in Calaveras County.

Tani Cantil-Sakauye: When you were growing up amidst all this, did you have in mind a dream career?

Rodney Davis: You know, my mother's hope was that I would become a doctor or a dentist.

Tani Cantil-Sakauye: She didn't want the life of a politician for you?

Rodney Davis: Not at all. I mean, when I was a kid . . . . These are . . . . Let's see an example of how times have changed. Things were so much less partisan in the Legislature. Every year, my mom would host a party for, you know, friends in the Legislature. And they would come over, she'd rent a piano, and legislators that, you know, played musical instruments would bring their instruments, and, you know, it was just . . . . Republicans, Democrats, I remember them being in the house at this affair, you know, laughing, playing their instruments, dancing around the house. It was just . . . . You'd never see that nowadays.

Tani Cantil-Sakauye: No. You describe a friendship and a camaraderie that just isn't even on the radar nowadays.

Rodney Davis: Yeah. Well, mom, when she was . . . . Much of her career, she was the only woman in the Legislature – Senate and Assembly. She had one other colleague for a number of years – Dorothy Donahue from Kern County – but, you know, then there was a stretch until the mid-60s when, you know, Vuich and March Fong Eu came on board. But during that stretch after Dorothy Donahue retired and that generation that I just described came on in the mid-60s, Mom was it. She was the only woman in the Legislature – interestingly enough, the chair of the Fish and Game Committee.

Tani Cantil-Sakauye: Interesting. Against all . . . 31:41

Rodney Davis: Yeah.

Tani Cantil-Sakauye: . . . boundaries. Let me ask you: Having this kind of rich stories and experiences, what kind of hobbies did you have?

Rodney Davis: Well I was, you know, a typical kid, involved in athletics and, you know, I can remember . . . . One of the downsides of being raised by a widow in the 1950s as a young boy are these awkward moments you . . . . You know, I remember when . . . in elementary school, when it was . . . there was that series of meetings that involved sex education, where all the guys . . . all the boys would be brought to this class by their dads. I had no dad. And they just passed me by. I never heard about that. I can remember, you know, being in . . . standing in line ever year to sign up for Little League, and, you know, there'd be all these boys there with their dads, signing them up, and there'd be my mom in her business suit and white gloves and high heels, standing in line with me to sign up for Little League. So, you know, it was the typical Sacramento experience. I went to schools in Sacramento, both Theodore Judah Elementary, Sutter Junior High School, Sacramento High School, because Mom was in session during the school year. And so, you know, those were a . . . . You know, it was a bit awkward at times, but you know, I did the normal things of Cub Scouts and Little League. Played Babe Ruth baseball.

Tani Cantil-Sakauye: Sounds like you . . . .

Rodney Davis: Basketball in school.

Tani Cantil-Sakauye: Because you're very athletic now. You've always been, right?

Rodney Davis: Well, I've enjoyed it, yeah. Did a little wrestling in high school, and . . . . Which . . . . One of my favorite stories about myself is when I got to UC Davis I had this notion that because I had this little wrestling experience in high school that I could compete for a spot on the UC Davis wrestling team. So I showed up to try out, and then reality hit. The coach paired me up with a ***blind*** collegiate wrestler, okay? Well, let me tell you, as soon as he got ahold of me it was like I was wearing a second skin. I just . . . . I could not shed this guy. I mean, it was just hopeless! So my collegiate wrestling career came to a speedy end.

Tani Cantil-Sakauye: Well, it sounds like, yes, reality hit, and so that means you turned to the books at UC Davis? No, wait – why did you pick UC?

Rodney Davis: Well, not entirely. I went . . . . I did . . . . I played for UC Davis for their men's volleyball team, and that was fun, as well as the, you know, normal intramurals and such. 35:08

Tani Cantil-Sakauye: How did you pick Davis?

Rodney Davis: You know, my mother had not graduated from . . . . I am the first person in my family to graduate from college. My dad did not graduate, obviously; neither did my mother. She didn't have a clue as to, you know, what it would take to go on . . . have a kid go on to college. You know, applications. I did not take the SAT; she didn't know that I was supposed to take the SAT test. So it never even dawned on me that I was supposed to show up some Saturday to take the SAT test. Fortunately, that was the year . . . . The following year, the University of California insisted that you had to take the test.

Tani Cantil-Sakauye: The following year.

Rodney Davis: Yeah. So I did not take it. Mom said . . . . Well, here's a great story about college and my mom. She had no idea of what college was all about from a practical point of view, but she wanted to instill in me the expectation that I should go on to college. And so year after year, she would secure tickets to the Cal-Stanford football game and take me down to that game. Now, I can remember as, you know, a young kid, you know, with my mom again, high heels, going to a football game in high heels, business suit . . .

Tani Cantil-Sakauye: Going to the game?

Rodney Davis: . . . and gloves. White gloves! Going to these Cal-Stanford games and sitting there and watching this football. And it didn't dawn on me until I was an adult that Mom had no clue as to what was going on on the field. She . . . . You know, she didn't know a first down from a field goal. Yet she . . . . Year after year she sat through those games, hoping to instill in me the expectation that I would go on to college. So when it came . . . . When I was a high school senior, I remember sitting down in the fall of my senior year and writing in longhand my application to UC Davis. And the reason it was UC Davis: it's the only school that I applied to, because my mom suggested it. And it didn't even dawn on me that I could do something else. My French teacher suggested that I apply to her alma mater, the University of Wyoming, so I gave that kind of a passing thought. But what cemented the deal is Mom took me over to UC Davis and we had lunch at Chancellor Emil Mrak's home, which is the same house but in a smaller version of the current chancellor's home over at UC Davis. And so I had lunch with the chancellor and my mom.

Tani Cantil-Sakauye: I think that's better than the SAT.

Rodney Davis: Well, I suspect so. And the . . . and then he had a student kind of show me around. So I, you know, I was . . . this was . . . I was the second-to-the-last class that started school in January and graduated in January. It was kind of a reality of the 38:34

baby boom. There were so many kids that they would start an entering class . . .

Tani Cantil-Sakauye: In January.

Rodney Davis: . . . mid-year. Right. So I entered Davis as a first-quarter freshman spring quarter.

Tani Cantil-Sakauye: Spring quarter. Right in the middle of things, really.

Rodney Davis: Yeah. As a pre-med major.

Tani Cantil-Sakauye: Because your plan was to become a doctor?

Rodney Davis: Well, that was my family's plan, so I decided, well, I'll . . . I owe it to them to at least give it a try.

Tani Cantil-Sakauye: That's the old college try we're talking about?

Rodney Davis: Yeah, which . . . the "try" was Chem 1A. And that pretty much cemented it, you know, because I just, you know, did not do well in chemistry.

Tani Cantil-Sakauye: So what ***did*** you major in?

Rodney Davis: Well, what happened was, that first quarter I was . . . it was a disaster, the transition from . . . . Well, also, going back, very formative for me was my experience in a young Masonic organization called DeMolay. What happened was, at that time, when I got to high school, there were still high school fraternities. In Sacramento there were two well-known fraternities: one that was dominant in Sacramento High called the Anoya Club, and another that was primarily McClatchy High kids called 36. And so when I got to high school, my brother-in-law had been a president of Anoya Club, my . . . you know, his brothers were in Anoya Club, they asked me to join Anoya Club. So I went through the whole initiation route, okay, of, you know, getting paddled – my rear end black and blue, you know, the eating of the, you know, raw eggs and the anchovies . . . .

Tani Cantil-Sakauye: A real hazing.

Rodney Davis: You know where all that occurred . . .

Tani Cantil-Sakauye: No.

Rodney Davis: . . . was at Dain Domich's huge home over on 45th Street, which became Ronald Reagan's governor's mansion.

Tani Cantil-Sakauye: That's funny.

Rodney Davis: Okay? 40:40

Tani Cantil-Sakauye: Yes, all of the hazing occurred there?

Rodney Davis: All the hazing occurred in what would later become Ronald Reagan's basement. So I got all through the initiation, and they were going to have a . . . . They had a summer kind of a ceremony commemorating that you're fully part of the club now. And they had this out by Ione at these caves. And so they took all of us . . . the initiates out there with a bunch of beer – kegs of beer, okay? I mean, I'm just this naïve high school freshman, or sophomore at that time – it was a three-year high school. And so I get out there, and they send us out to gather firewood. And so we come back, and I step out of the brush, and the place is surrounded by county sheriff's vehicles. You know, red lights flashing and, you know, to arrest all these underage kids with being . . . you know, having beer. Well, you can imagine what was going through my mind, you know, how this would embarrass my mother.

Tani Cantil-Sakauye: So you're being herded in; you're part of the arrestee group.

Rodney Davis: Oh, yeah. I mean, all these savvy, you know, older guys that the sheriff's deputies are asking "What's your name?" and they'd say "Joe Potato." "And where do you live?" you know. "Fresno." You know, it was . . . turns to me, "What's your name?" "Uh, John Rodney Davis and I live at 116 San Antonio Way!" You know, just . . . .

Tani Cantil-Sakauye: Give it all up.

Rodney Davis: Yeah, so all the . . . . So who ends up getting . . . my mom getting a notice from the juvenile hall authorities to come in and . . . because of the citation? Yours truly. Needless to say, that was the end of my Anoya Club affiliation from that point. My mom said, "That's it," you know, "for this stuff. You know, I'm going to enroll you in this Young Masonic organization called DeMolay." And so, you know, that's what I did. You have to realize that when I was growing up, Mom's opponents – which she had an opponent every single year, she never got a free ride; 24 years of opponents – some of them would check on me to see what sort of dirt they could come up with. Anything to suggest – at that time, especially during the 1950s – that this mother, who was an assemblywoman, was neglecting her children was, you know, political dynamite. So, you know, they would come to my schools – my elementary schools – and ask questions of teachers and the principal. It was, you know, it was nasty times. I can remember, as a kid, my mother being involved in this nasty dispute involving labor unions and management up in Shasta County. And she had the drive . . . one of the drive components of her vehicle manipulated so she lost the steering of her vehicle . . .

Tani Cantil-Sakauye: Oh, my goodness. 44:11

Rodney Davis: . . . after a meeting and, you know, skidded off the road. Another time, when we were going on Highway 36, they chased us. I can remember my mom, you know, doing . . . turning off the headlights on 36 and then cutting off onto this logging road and going behind these trees. And there we are in the pitch black while these two cars that were chasing her went back and forth, back and forth . . .

Tani Cantil-Sakauye: Looking for her.

Rodney Davis: . . . looking for her. You know, I was just, you know, a young child, just scared to death.

Tani Cantil-Sakauye: Oh, how . . . . Incredible stories.

Rodney Davis: So, you know, I came up as, you know, being very, very careful about not doing anything as a young man that could reflect poorly on my mom. So this experience with the county sheriff out by Ione was pretty darn threatening.

Tani Cantil-Sakauye: Well, especially because it came out of nowhere. You know, it sounds like you were doing all the right things and then were surprised by this.

Rodney Davis: I was. Well, DeMolay was a godsend. That was a wonderful opportunity for a lot of, you know, wholesome fun. I went through and, you know, went through the chairs of leadership in DeMolay; got, you know, what was comparable to an Eagle scout thing – the Chevalier – I succeeded in getting that, as well as the Representative DeMolay Award; traveled around the state to various DeMolay conventions. So that was very fun. And then, you know, every weekend was a dance with the Job's Daughters or the Rainbow girls. So it was a good social outlet, too.

Tani Cantil-Sakauye: Yes. It sounds like you knew, really, you were in many ways groomed for a career in politics, in a structure to do the right thing, based on your mother's living and leading by example, and your organizations and go to university. And you said DeMolay helped ease your transition to a university . . . to the university?

Rodney Davis: Well, it, you know, it certainly . . . . There was a lot of public speaking associated with that organization. And I took to that.

Tani Cantil-Sakauye: Did that influence your major?

Rodney Davis: I think so. What I did was, I completely bombed that first quarter at UC Davis. It was spring semester – spring quarter. You know, I . . . . A one point. A one point. I was taking, you know . . . . Chemistry I got a "D" in, and so I went . . . . The dean called me in and said, you know, "Thanks for the 47:02

memories. You're going home!" And I remember thinking to myself, "What is my mom going to say?" And I said, "Give me a chance." I said, "You know, I came here, tried to fulfill this expectation that I was going to major in a . . . in some sort of science and go on to become a doctor." I said, "Look at my high school transcripts. All my strengths are elsewhere," although, you know, I did respectably well in the math and science. I said, "Give me a chance." And he said, "Okay, I'll let you come back for one quarter, but you've got to pull up all your grades." And I said, "Fine." I had landed a job, through my mother interceding, as a firefighter for the California then–Division of Forestry. And interestingly enough, another Court of Appeal connection: Bob Puglia.

Tani Cantil-Sakauye: This is incredible!

Rodney Davis: Yeah. Bob Puglia was a firefighter at the same fire station in Calaveras County that I was a firefighter at. Another political brat – Steve Rodda, son of Senator Al Rodda, . . .

Tani Cantil-Sakauye: Oh, yes. Judge Rodda now.

Rodney Davis: . . . who, you know, is a dear friend of mine – is . . . you know, was a firefighter. His senator father got him a job as a firefighter. Same station, you know, at . . . up in Calaveras County. You know, I look back and think of these rangers at the station getting all these political brats, you know, over the years. So there's definitely a place in heaven for them, I tell you. But yes, I had that in common with Bob. We would swap stories about fighting fires.

Tani Cantil-Sakauye: In Calaveras County as a very young man, although the speech to the dean sounds like it was the budding career of a lawyer, a persuasive speaker.

Rodney Davis: Well, I kind of gravitated to anything that I would do well at, at that point in time. I did a lot of growing up that summer. You know, it was my first real job, and, you know, I was determined not to embarrass my mother.

Tani Cantil-Sakauye: Sounds like a dangerous job, though.

Rodney Davis: Well, it's . . . . I mean, I don't want to overstate it. I had some wonderful, challenging experiences, some of which I . . . . You know, I dropped out of a helicopter into a river up by Groveland when I was on a fire in that area with about 500 feet of hose and a portable Pacific Marine pump. I jumped out of the helicopter, they lowered that stuff into the river where I jumped into, and then would essentially clear out . . . put out enough fire where they could bring down and land their helicopters and bring hand crews in. One of my earliest experiences: I was brand-new, and we hit this grass fire up by Copperopolis, 50:36

and it was a young rookie driver. He let the fire get behind the truck, and so we were essentially . . .

Tani Cantil-Sakauye: Trapped?

Rodney Davis: . . . you know, in the middle . . . trapped in the middle of this fire. And so then these planes would come over and drop what was called DAP: this pink fire retardant. And I remember getting out of that truck, putting hose bags over ourselves, and then them calling in a DAP strike, an air strike, on our truck to save us. And after the grass fire was over with, and we were going back, it was just complete black where the grass had burned, except this big pink dot where they had dropped DAP onto our truck. And then in the middle of the pink dot was the outline of our truck.

Tani Cantil-Sakauye: Good aim!

Rodney Davis: Yeah. So that was . . . . I grew up a great deal. By the time I got back to Davis in the fall, there were no science classes on my schedule. It was psychology and history and English and rhetoric.

Tani Cantil-Sakauye: And that's what you majored in?

Rodney Davis: Well, I thought I was going to be a psychology major because that was, you know, back in 1967 at a time when encounter groups were the rage. I thought that was pretty neat. And then I . . . . So I did very well that quarter academically – brought up all my grades and did very well. So the following quarter I just followed with the next succession of classes. But the . . . psychology was 1B – behavioral psych. And suddenly instead of encounter groups and Fritz Perls and psychoanalysis, it was the mating habits of the rough periwinkle, you know, and the cuttlefish. And I decided psychology was not going to be my schtick. So I gravitated to rhetoric and that's what I finished out on.

Tani Cantil-Sakauye: At that time, were you forming any ideas about law school? Were you thinking to the next five years ahead?

Rodney Davis: You, know, I was . . . . No, not really. My mother was not encouraging me to explore the law at all; nobody else was. I was in Sigma Nu fraternity there at Davis. And although there were fraternity brothers that went on to law school, they were kind of few and far between. I was pointing towards grad school. I was really caught up with my course of study. There was a rhetorician by the name of Frothingham at the University of Iowa that I really took to. And so my hope was to apply to grad school at Iowa and study under him. You know, this was the heyday of Marshall McLuhan and the, you know, "The Medium Is the Massage" and all this great stuff with regard to rhetoric. I enjoyed classical rhetoric, you know; I 54:02

studied Aristotle and Cicero and, you know, all the greats. My senior thesis, I did a comparison between two British political figures and that was very enjoyable. So that's where I thought I was headed. I just applied to law school as kind of a backup to going on to grad school. And so when I got to that key time, when I was accepted . . . .

Tani Cantil-Sakauye: By Hastings?

Rodney Davis: I was accepted at UC Hastings and Santa Clara. And I decided to go ahead and try law school for at least, you know, a time. It just seemed that the market for becoming a college instructor was pretty dim at the time. And so I guess it was kind of a thought that I ought to give this law school thing, you know, a run; at least there is employment there.

Tani Cantil-Sakauye: This is '71. 1971.

Rodney Davis: Yeah. Yeah.

Tani Cantil-Sakauye: So it was a practical . . . more of a practical "get a job" . . . .

Rodney Davis: It was. There was no great love affair. There were no mentors. All my lawyer mentors, or people that I knew were lawyers that I had some association with, were non-practicing lawyers; they were all politicians – you know, people that, through my mom, I became acquainted with. You know, Court of Appeal Justice Ed Regan was a family friend. Of course Fred Marler. You know, these were all legislator lawyers. So the thought of becoming a practicing lawyer was just not in the . . . in my reference point. So when I . . . after I . . . . With the . . . . I went ahead and accepted the spot at UC Hastings and then traveled Europe for 10-1/2 weeks.

Tani Cantil-Sakauye: Before law school.

Rodney Davis: Yeah. Not really . . . . I was kind of noncommitted. Should I really do this, or, you know, go to grad school?

Tani Cantil-Sakauye: So still not really . . . just not really committed.

Rodney Davis: No, no.

Tani Cantil-Sakauye: Thinking about it.

Rodney Davis: And so when I was traveling around Europe, one of the things that . . . significant things that happened to me is I reconnected with Christianity. And that was huge. There's something about bicycling around Great Britain and pulling in to these medieval cathedrals . . .

Tani Cantil-Sakauye: Oh, yes. Yes. 57:09

Rodney Davis: . . . and, you know, that you had an opportunity to . . . . I remember I pulled into Oxford on my bike. I went over to this huge Penguin bookstore, looking for science fiction to read. As I bicycled around these various parts of Great Britain and Ireland, I would go to bookstores and pick up locally connected literature. Like when I was in Wales, I read Robert Llewellyn's ***How Green Was My Valley***. When I got to Oxford, I went into the bookstore there and looked around and I thought, "I want to read a little science fiction." And I saw this really wild cover, and it looked like science fiction to me. I picked it up; it was ***The Screwtape Letters*** by C. S. Lewis, the great English apologist. And so there I was reading ***Screwtape Letters*** and that . . . . C. S. Lewis really spoke to me at that point in my life, so I grabbed everything that I could of C. S. Lewis – ***Mere Christianity*** being his most significant tome – and bicycled around the remainder of my England experience reading Lewis and worshipping in these medieval cathedrals. So that was significant. I got as far as Turkey, you know, on my own, and Greece on my own, and came back and enrolled at UC Hastings.

I didn't like law school. I thought law school was just terrible. It was not . . . . I compare it with my son Kevin's experience at UC Davis, which I believe is your alma mater.

Tani Cantil-Sakauye: Yes.

Rodney Davis: You know, this wonderful, nurturing, supportive, clubby atmosphere. UC Hastings was a big program. At the time they had no residence facilities, so there was no . . .

Tani Cantil-Sakauye: No community?

Rodney Davis: . . . critical mass as a community. You know, I was living up on Twin . . . near Twin Peaks, got a motorcycle, and commuting to and from campus on this motorcycle. Go figure that, huh?

Tani Cantil-Sakauye: Yeah. I'm trying to picture that, actually!

Rodney Davis: I know! With my wife Sue on the back hanging on to me? That was the best part of having a motorcycle, is to have a beautiful woman hanging on to you in the back. You know, it was just not that fun. It wasn't fun at all. I thought the presentation was not done in a way that particularly grabbed me.

Tani Cantil-Sakauye: You mean the Socratic method?

Rodney Davis: Yeah. I'll give you an example. I had Trusts and Estates from Richard Powell, who wrote the, you know, the treatise on real property. And when he was at Columbia he ***created*** the law school class of Trusts and Estates. You know, Powell was so caught up in himself that there we were in this big lecture hall, and he would call on you and maybe one other during 1:00:26

a class period, and you were on the spot for the entire, or half, the class period as he used the opportunity to make himself look profound and you look like an idiot. And he was such a cantankerous old coot that Lindsay Wagner – the music . . . the movie star that played the female . . . .

Tani Cantil-Sakauye: "The Bionic Woman." That one?

Rodney Davis: Well, she was also the love interest in ***Paper Chase***

Tani Cantil-Sakauye: Yes.

Rodney Davis: Well, she came to our class and sat in on two weeks of Richard Powell to get a feel for the Houseman character in ***Paper Chase*** That's the type of a guy he was. He . . . . I remember there were three Simons in our class. And he would put his nose down in the seating chart and he'd go . . to call on who was going to look stupid that day, and he'd go, "Mr. Simon!" You know, and these three guys would just be quaking. And then he'd keep them on the hook, and then he'd finally go, "JOHN Simon!" You know, the other two would . . . .

Tani Cantil-Sakauye: He did it all for effect, and he knew his effect, and he was cruel.

Rodney Davis: Yeah.

David Knight: I'm going to stop you here to change tape.

Tani Cantil-Sakauye: Okay.

David Knight: Continue.

Tani Cantil-Sakauye: So in Hastings, did you have any kind of job in the Bay Area?

Rodney Davis: Not during the school year. I . . . . Actually, what made life a bit more enjoyable is I continued my passion for volleyball. Every year . . . I mean, every day I'd go over to the Central Y there on Hyde – or Golden Gate, I guess it was – and play volleyball with a number of people. And so that was good. But my summer jobs . . . . The . . . . My first job was not legal-related. I worked in the billing department for the United Grocers Association. And then my first . . . . Then my second year . . . after my second year of law school, I worked as a law clerk for the Department of Water Resources, and I thought that . . . . Because my mom had this huge interest in water law, and she kept . . . . She . . . . We would have discussions of that. I took a water law course when I was at Hastings, and, you know, she was encouraging me to think about that. She'd talk often about Kronick Moskowitz and . . .

Tani Cantil-Sakauye: The big firms. 1:03:08

Rodney Davis: . . . you know, how they made kind of a career out of representing water districts in the state, and that might be a thing that I would want to pursue. It really didn't grab me at that point in time, actually. My . . . . By the time I got to the third year, I was on the staff of the ***Hastings Constitutional Law Quarterly***. I thought constitutional law, as for most people, was quite . . . you know, that was interesting. I did not take Advanced Criminal Procedure. The only Criminal Procedure I had was in regard to, you know, the basic criminal law course from . . .

Tani Cantil-Sakauye: The core class?

Rodney Davis: . . . Professor Perkins. So when I . . . . I actually looked into the Peace Corps instead of pursuing a legal career my third year, and I . . . . Then, you know, I got around to the spring. This was a terrible time to get a job as a lawyer. There were people that, you know, were accepting jobs . . . . You know, I remember that one of my classmates took a position for, you know, 500 bucks a month as a lawyer down in Monterey County. And . . . .

Tani Cantil-Sakauye: This is 1974?

Rodney Davis: This is 1974. My wife, Sue, was a teacher at that time. One of the . . . . The one nice thing of law school was my social life. And that is, picture my wife, Sue, going through the teaching credential program at UC Davis, in which she was renting a house with girlfriends, one of whom had a boyfriend at grad school at San Francisco State and the other a boyfriend at dental school at UCSF. And so they would either get in a car and come up to San Francisco during the weekend or we'd go back to Davis. So that was quite enjoyable.

Tani Cantil-Sakauye: So you had the Yolo Causeway connection there.

Rodney Davis: Clearly. Listening to the theme song from ***Shaft*** as I would drive to Davis. But I just . . . . My first job was, I applied for a position in the State Attorney General's Office. That was during my third year of law school, in attempting to become a gainfully employed lawyer. My first interview was in the San Francisco office with soon-to-be Supreme Court Justice Wiley Manuel.

Tani Cantil-Sakauye: How interesting. So who was the Attorney General when you applied in 1974?

Rodney Davis: Evelle Younger. And so I interviewed with Wiley Manuel there in his office in San Francisco.

Tani Cantil-Sakauye: How interesting.

Rodney Davis: And Wiley Manuel says to me, "You know, jobs in the civil section are really difficult to, you know, come by. Why 1:06:04

don't you think about applying to the criminal section, because we're expanding on the criminal side?" So I took his advice, and Manuel set up an interview for me with the Sacramento office. And I remember being interviewed by Arnie Overoye and Bob Marshall and Eddie Keller, who became a superior court judge.

Tani Cantil-Sakauye: Yes, El Dorado County Superior Court Judge, recently retired.

Rodney Davis: Yeah. And Joel Carey and Marge Parker and Roger Venturi. You know, all these old hands in the Criminal Division. So I got the nod and . . . along with – I'm trying to think; there were a bunch of us. Like I said, it was days of expansion in the A.G.'s Office, so it was one of these, you know, strokes of luck, where . . . . Bob Tyler – then known as Toby Tyler. Lisa Brant, who, you know, later became . . . you know, heading up all the administrative law judges. Emry Allen. Bob Jibson. I'm trying to think . . . . There may . . . . There were probably a couple others; I think there were.

Tani Cantil-Sakauye: Yeah, institutional names in the . . . in Sacramento in the legal community.

Rodney Davis: Well, we all came in at once – all sweated out the bar results together. There was, I think, one of us that didn't pass the bar, and so he was asked to leave. Everybody else came through. I remember Lisa Brant was one of these individuals that you didn't want to talk to because she had an inside person with the bar examiners. So while all of us had to wait for the next day for results, she got her confirmation the afternoon before.

Tani Cantil-Sakauye: That's all good and well if you pass.

Rodney Davis: Yeah. So that . . . . I got the job with the A.G.'s Office.

Tani Cantil-Sakauye: Were you . . . . In the Criminal Division, were you doing trial work or doing criminal appellate work?

Rodney Davis: Well, initially criminal appellate work. I remember the . . . my first court appearance, I was on Roger Venturi's team and there was a deputy by the name of Dan Dauenhauer on his team. Also on my team was Janice Hayes, who later became a superior court judge and, you know, a long-term friend. Janice was on the team. I came in one morning, brand-new – I had just passed the bar and gotten sworn in – and Roger says, "Dan has a civil rights action that he's defending over in federal District Court before Judge MacBride. And Dan can't make it. I'd like you to take this; go over and secure the dismissal." I said, "Really?" And he goes, "Yes, the papers are filed. The plaintiff here – this inmate – is dead, and we filed the death certificate with the court. All you have to do, Rod, is to go over to . . . before Judge MacBride and explain that Billy Ray Neal is dead, and move to dismiss." And so I go over to 1:09:31

federal District Court, and, you know, it's my first court appearance. I'm reciting how I'm going to say, "The plaintiff is dead," you know! Rehearsing . . .

Tani Cantil-Sakauye: You're rehearsing this. I can see it.

Rodney Davis: . . . you know, two sentences. And I'm there, and I'm watching Judge MacBride hold one of his lawyer neighbors in contempt and fine him an amount of money for some, you know, minor procedural faux pas. So I get up; I go up; I say my great lines; MacBride's looking at me, you know, over his glasses; and before he's able to grant my motion, horror upon horror, a voice comes from the back of the courtroom: "I'm Billy Ray Neal, and I am not dead!" Well, the only person that was close to death at that point in time was yours truly! MacBride looks at me and says, "Counsel, I take it you'd like a continuance?" "Yes, Your Honor." So that was my . . . the start of my glorious legal career.

Tani Cantil-Sakauye: That's a memorable day.

Rodney Davis: Yeah, well.

Tani Cantil-Sakauye: That's a memorable day.

Rodney Davis: You know, I was sworn in in the Third District Court of Appeal, right there in the chambers. You know, there were so few new lawyers at the time. I remember it was Ed Regan, Justice Friedman, and Bert Janes that were there as the panel to swear us in.

Tani Cantil-Sakauye: In the historic courtroom.

Rodney Davis: In the historic courtroom. I remember being there. It was the same year that Art Scotland, you know, was sworn in, and as . . . . You know, who would know that, you know, later . . . . And Vance Raye came in as a new lawyer to be sworn in to the California Bar.

Tani Cantil-Sakauye: This is in 1974.

Rodney Davis: And so here we were, you know, didn't know one another, and we would have this rich professional life with one another . . .

Tani Cantil-Sakauye: Absolutely.

Rodney Davis: . . . in that courtroom. I never ***dreamed*** as I was standing there that day, that I would have the opportunity to actually be a justice in that courtroom.

Tani Cantil-Sakauye: Spend 20 years there . . .

Rodney Davis: Yeah. 1:11:55

Tani Cantil-Sakauye: . . . in that historic courtroom. End your career there.

Rodney Davis: Well, it's . . . . After Billy Ray Neal, I did appellate work. But I think I got my break in the A.G.'s Office . . .

Tani Cantil-Sakauye: How so?

Rodney Davis: . . . really, as a result of . . . . That was a time when there were very few deputies that wanted to do the oddball trial work that came to the office. And I decided that, you know, really, if I was going to have an opportunity to, you know, shine as a lawyer, that, you know, maybe I'd try to find a niche that other people weren't doing. And in that . . . at that time it was trial work. You know, Arnie Overoye was always looking for somebody to volunteer to do these oddball cases, where the District Attorney would conflict out. Well, I really was fortunate in that that was at a time when the District . . . the Public Defender of Tulare County was elected District Attorney. So every single case that was pending, he conflicted out of. Yes. So the office turned, and Susan Cohn, Paul Dobson, and I essentially moved down to Hanford to try cases!

Tani Cantil-Sakauye: One right after the other.

Rodney Davis: Yeah, I mean it's arson case, burglary case. And then followed . . . . After we finished that stint, which was great fun – great camaraderie, you know. We'd go out to eat at night and laugh and watch each other's arguments and, oh, it was just all kinds of fun. You know, we were young folks in our twenties.

Tani Cantil-Sakauye: Oh, yes.

Rodney Davis: And then Arnie liked what I was doing, so he sent me down to try a cop on the . . . . That was . . . it wasn't Hanford, it was Visalia ***[inaudible]*** We were all in Visalia in Tulare County. Then he sent me to Kings County to try this cop in Hanford who had gotten caught stealing building materials from a construction site. Now, that was an amazing experience because my opponent – the defense attorney of this cop – was the . . . a fellow that had been just elected but he didn't start his term of office until January, but he had just been elected judge, okay?

Tani Cantil-Sakauye: Oh. And he's still trying cases?

Rodney Davis: Still trying cases before he took office. And, you know, so . . . but the good citizens of Hanford went along with me, and I was able to convict him. And that was crazy. And then from there I got a number of oddball assignments investigating misconduct on the part of district attorneys. One oddball case involving the . . . an allegation against the District Attorney of Yuba County. There was a reporter for the ***Examiner*** I believe, at 1:15:15

the time – but not the ***Chronicle*** – that had gotten . . . gone up. And at that time, Marysville was the site of, you know, a lot of prostitution that prostitutes would service the agricultural workers. And this guy got picked up for soliciting an act of prostitution – this reporter. And then he went in and then he filed a complaint against the District Attorney, alleging that the District Attorney had offered to drop the charges if he would feature the District Attorney in an article in the Bay Area paper. And so I had to go up and investigate that. That was a break, I thought, because that came out pretty well.

And then I got another big break. And that is the District Attorney of Sierra County was appointed District Attorney of Lassen County. And so Sierra County had no District Attorney. And so Arnie sent me up there to be the Acting District Attorney of Sierra County.

Tani Cantil-Sakauye: How long were you the Acting District Attorney?

Rodney Davis: About three months.

Tani Cantil-Sakauye: Interesting.

Rodney Davis: And so I went up to Sierra County – in little Downieville, population 323. I'm sitting there. I've got one . . . two staff members, a secretary and a welfare investigator, who also does work as . . . handling the juvenile cases. And besides all the traffic cases and, you know, the penny ante misdemeanor stuff that I was handling, in through the door walks this fellow in what had to be, at the time, you know, a very expensive suit. He did not look like one of the folks that lived in Sierra County. And he tells me this tale of woe where he has been the victim of a swindle, he and his colleague. They were from Calabasas, a wealthy area of . . .

Tani Cantil-Sakauye: L.A.

Rodney Davis: . . . L.A. It turns out to be a multimillion-dollar fraud involving gold mines in Sierra County, a casino in Vegas, mobile home parks in Arizona, and this . . . the lease of this big piece of property called Frico Ranch in Calaveras County. And so I'm listening to this thing as it fell in my lap. I mean, this is amazing, Tani. It involved . . . . This fraud involved, you know, the perpetrators leasing a plane and taking these investors on a junket down to Mexico and everything. And I said, "You know, you came to the right person." And I got on the phone to the agents at the Bureau of then-Investigation at DOJ, and they just were delighted to grab ahold of this thing.

Tani Cantil-Sakauye: Oh, and investigate it and unearth it?

Rodney Davis: Yes. So I put on this . . . you know, prosecuted these swindlers up in little Sierra County involving millions of dollars, 1:18:34

these elaborate business schemes. It was just wonderful fun. You can imagine the charts that DOJ . . .

Tani Cantil-Sakauye: Sure.

Rodney Davis: . . . put together for me.

Tani Cantil-Sakauye: The great story. And you're from an office that has these resources to be able to put this on. If it had been . . .

Rodney Davis: Exactly.

Tani Cantil-Sakauye: . . . the Sierra County D.A., what would they have done with it, really?

Rodney Davis: Really. And so all the lawyers were from out of town – myself included. The judge that was specially sent in to try this case was Judge Patton out of Colusa County. Well, little Downieville has . . . had two motels and one restaurant: the St. James. And so this is how civilized things were. We would finish a day's worth of testimony, and then we would go back to our hotel rooms. The judge was staying at one motel; the defense attorneys and I were staying at another. And then Judge Patton and his wife would entertain all of us for cocktails on the balcony of the motel. And then we would all get together and walk down to the one restaurant – the St. James – and have dinner together.

Tani Cantil-Sakauye: That is true collegiality. Just doing your work and doing it right and doing it professionally.

Rodney Davis: Well, yeah. I'm taking too long, but the story . . . . At that point, I decided that I might . . . because I was . . . . I felt I was a pretty successful trial lawyer at the time, and so . . . .

Tani Cantil-Sakauye: And versatile. And versatile, really, doing all different kinds of cases.

Rodney Davis: Yeah, yeah. It was fun.

Tani Cantil-Sakauye: Did you ever have a dangerous situation in a courtroom?

Rodney Davis: I did, yeah. But that, really . . . when I was trying MediCal fraud cases. I . . . . Well, I got to MediCal fraud because Paul Dobson and I talked very seriously at that point of leaving the office and going into private practice. We shopped office furniture. And then soon I decided to take . . . . I had accumulated a lot of vacation, so I decided to take six weeks off and travel around Europe, which we did. When I got back, Marge Parker walked into my office and says . . . said, "Rod, you know, the Attorney General" – at that time Evelle Younger – "is starting up this fraud unit to prosecute medical providers in California. Would you be interested in heading up 1:21:00

the Sacramento regional office?" Otherwise, Dobson and I probably would have gone out.

Tani Cantil-Sakauye: Right. You'd be a big-name firm here downtown.

Rodney Davis: Yeah. So that was great. Janice Hayes was in charge of the San Francisco office. There were 90 investigators, auditors, and lawyers involved in the statewide operation. There was a regional office in San Diego – Rich Garske. Barry Sachs was . . . headed up the . . . . It wasn't Rich Garske; at first it was Rick Millar, and then it was . . . Barry Sax headed up the L.A. office. But what fun that was!

Tani Cantil-Sakauye: You're starting the MediCal Fraud Unit, right?

Rodney Davis: Yeah, yeah. Great fun.

Tani Cantil-Sakauye: It's a ***huge***unit now.

Rodney Davis: You know, I had, you know, the bulk of counties up here, and I went around to introduce myself to all the District Attorneys to say I'd be trying these cases. I went to Alpine County – Markleeville – met with the D.A., and I made my pitch, and he said, "Rod, what's a medical provider?" I said, "Well, you know, a physician, a dentist, an ambulance company, a clinical lab." And he looks at me and he says, "We don't have any of those in Alpine County." So I said, "Well, I guess I won't be handling too many cases here in Alpine County." So, you know, that turned out to be great fun. I just tried some wonderful cases.

Tani Cantil-Sakauye: How many years?

Rodney Davis: From 1989 ***[sic]***to 1983, when I was appointed to the bench. In 19 . . . . Janice Hayes left the San Francisco office to become . . . to go to work for the Crosby firm in Oakland. And so Marge asked – Marge Parker, who headed up the statewide operation – asked me to also be the supervisor of San Francisco. So I got more cases. I got to try cases in San Francisco and Santa Clara and, you know, all over the place. Wonderful stuff.

Tani Cantil-Sakauye: All trial work, then.

Rodney Davis: Yeah, yeah. And I had this staff of investigators and auditors, and it was really a "white hat" type of prosecution . . .

Tani Cantil-Sakauye: Absolutely.

Rodney Davis: . . . where these were wealthy people stealing from a program for the poor. I mean, you can really get behind that.

Tani Cantil-Sakauye: Yes. 1:23:25

Rodney Davis: So I was trying, you know, ambulance companies. It was right out of that movie ***Mother, Jugs & Speed***, you know, billing the state for emergency services when they, you know, they were just funneling people to doctor's appointments. Clinical labs in San Francisco that were billing the state for, you know, laboratory work that was . . . just never occurred. I tried one dentist for billing us for extracting teeth and had the witness come in and smile; she still had the teeth.

Tani Cantil-Sakauye: Good stories.

Rodney Davis: I prosecuted a, you know, a psychiatrist in Santa Rosa for, you know, having intercourse with his patients and billing the state for psychotherapy. I mean, this is wonderful.

Tani Cantil-Sakauye: This is good stuff.

Rodney Davis: Yeah. I prosecuted one physician in Santa Cruz that was billing us for these, you know, very elaborate expensive medical procedures, and all he was doing was what turned out to be what he called "colonic therapy," which was . . . . You can get an idea what that was.

Tani Cantil-Sakauye: I understand the verb in there.

Rodney Davis: Yeah. So when I was trying that case in Santa Cruz, that was a rather harrowing experience. I was examining a witness in the Santa Cruz courtroom, and the . . . all of a sudden the judge ducked behind the bench and the court reporter started to scream, and I thought, "Geez, is it something I said?" I looked to my left and saw all this movement on the part of the jurors, and I saw the bailiff – who was sitting by the jurors – start to reach for his firearm. And the long and the short of it is, then there was a pause, somebody walked in to that courtroom, walked right behind me, put a loaded revolver to the back of my head – I didn't even know that he was doing this – and then he lowered the revolver, dropped it on the ground, and ran out of the courthouse. I don't know who this guy was.

Tani Cantil-Sakauye: They never caught him? They never . . . .

Rodney Davis: Never caught him. Have no clue.

Tani Cantil-Sakauye: Never anything that followed up on that, that gave a clue to explain that behavior?

Rodney Davis: Nothing at all.

Tani Cantil-Sakauye: How scary. 1:25:44

Rodney Davis: So I went back to my hotel room that night and made my nightly call to my wife, and she goes, "Hi, Rod. Anything new happen today?" "Yeah."

Tani Cantil-Sakauye: Yeah.

Rodney Davis: So . . . .

Tani Cantil-Sakauye: So it sounds like you could have stayed in MediCal fraud or at the A.G.'s Office for the remainder of your career.

Rodney Davis: Well, you know, I was . . . . George Deukmejian was Attorney General during the . . . really the . . . most of my career with the MediCal Fraud Unit. And that was a break, because when we would file cases there would be a press release. Occasionally, you know, the Attorney General would actually appear. And so, you know, he knew the work that I was doing and he . . . you know, who I was and that sort of thing. And actually, you know, I had a connection with George Deukmejian in that my sister was his secretary when he was a senator. And I remember when I passed the bar, Senator Deukmejian, my sister, a young fellow that then George Deukmejian knew by the name of Ried, I think his name was – Michael Ried – he took us to lunch to celebrate passing the bar, so that was nice. You know, that was back in 1971, and then he became Attorney General in – what was it – 1980, maybe?

Tani Cantil-Sakauye: Oh, you mean Governor?

Rodney Davis: No, this was when he was Attorney . . . first . . .

Tani Cantil-Sakauye: First Attorney General?

Rodney Davis: . . . Attorney General.

Tani Cantil-Sakauye: When was he . . . . I thought he was . . . . Yeah, maybe '80, because he was Governor mid-'80s. Early to mid '80s.

Rodney Davis: Yeah. So I think he was elected Governor in, what, '82 maybe?

Tani Cantil-Sakauye: That's what I was going to say.

Rodney Davis: So maybe it was '78 that he was . . .

Tani Cantil-Sakauye: Senator?

Rodney Davis: . . . elected Attorney General.

Tani Cantil-Sakauye: So when he was elected Attorney General and you worked under the MediCal unit for him, then he became Governor.

Rodney Davis: He became Governor, and then John Van De Kamp became Attorney General and immediately asked Marge Parker 1:27:59

to resign as head of the MediCal Fraud Unit. And so then he – Van De Kamp – you know, started interviewing people for the job to replace Marge Parker as statewide chief of the MediCal Fraud Unit. And so Van De Kamp selected me, and that's when I became chief of the MediCal Fraud Unit. But at the same time – probably taking way too long – but it was an interesting situation. George Deukmejian was elected Governor, right? And that was unexpected, as you'll recall, right?

Tani Cantil-Sakauye: Yes, I do know that.

Rodney Davis: And then Governor Jerry Brown, you know, did this very controversial thing of filling every single judicial vacancy in the state at the last moment without, you know, any of those people going through the JNE Commission. A lot of them were controversial people.

Tani Cantil-Sakauye: "Midnight appointee" stories.

Rodney Davis: Right. So in Sacramento County, the midnight appointees were John Lewis, professor at McGeorge; Ron Robie, our colleague, right, who was then Brown's Director of the Department of Water Resources; Mike Ullman, who was the chief consultant for the Assembly Criminal Justice Committee – you know, Darth Vader to any prosecutor; Alice Lytle, you know, who was heading up, I think, one of the housing departments over for the Governor's Office; and – I'm trying to think – Barry Loncke had recently been appointed. But those were the brand-new judges who came on board at midnight that January. Well, Allen Fields – you know, a very loyal Republican – decided to run for an open seat. He was a municipal court judge. There was an opening on the superior court. Allen ran for it unopposed, was elected in June, and Governor Brown's appointments secretary, Tony Kline, now Associate Justice Tony Kline, calls Allen and says, "Congratulations, Allen," you know, "the Governor would like to elevate you to the superior court so that you can start early rather than taking your position in January, so you can . . . so we can get the appointment to the municipal court and you can start pulling down superior court salary and responsibilities." And that was frequent; that was just the way things worked. Well, Allen – not caring for Governor Brown – said, "No, I'm not going to take it."

Tani Cantil-Sakauye: I didn't know this story.

Rodney Davis: "I'll wait until January." Isn't that great?

Tani Cantil-Sakauye: That's a great story.

Rodney Davis: So I got wind of this. Allen sat there in municipal court for six months in order to give the next governor the appointment. So I got wind of the fact that when George Deukmejian took office, that there was one vacancy . . . 1:31:32

Tani Cantil-Sakauye: This is smart.

Rodney Davis: . . . that he had. So I said, "What the heck." You know, I applied for the position and, you know, due to a number of circumstances – not the least of which is my prior connection with the Governor, my sister Karen's association with him, and very importantly, my mom's long history with the Governor – I definitely, you know, was up there in terms of his attention. Mike Franchetti was in on those initial, you know, appointments. Rod Blonien was one of his . . . . Marvin Baxter – now a, you know, a . . .

Tani Cantil-Sakauye: Supreme Court. Cal Supreme Court.

Rodney Davis: . . . Supreme Court justice – was the appointments secretary. I remember going in and interviewing with Marv.

Tani Cantil-Sakauye: Now, how many years had you been a lawyer at this point in time?

Rodney Davis: It was nine years.

Tani Cantil-Sakauye: All right.

Rodney Davis: And so when Deukmejian made the announcement of his initial judicial appointments in July, he had accumulated seven in these oddball circumstances, through deaths and retirements and Allen Fields. And so I was one of the first seven appointments, including Dan Kremer, who later became Presiding Justice of the – what – 4th DCA . . .

Tani Cantil-Sakauye: I think so.

Rodney Davis: . . . in San Diego. And, you know, Dan was John Van De Kamp's head of the Criminal Division when he was appointed.

Tani Cantil-Sakauye: Oh, I didn't know that.

Rodney Davis: And he was appointed to the superior court, and then later to the Court of Appeal.

Tani Cantil-Sakauye: Because in those days, to get to superior court, you had . . . you needed 10 years, but to get to muni court you needed six.

Rodney Davis: Five.

Tani Cantil-Sakauye: Five? Yeah. Five.

Rodney Davis: So when I got to the municipal court, you know, I was 34 years old.

Tani Cantil-Sakauye: I remember your years at the municipal court. 1:33:27

Rodney Davis: Well, you know, my . . . one of my first cases that I handled as a judge in the municipal court, I walked . . . . Here's a great story about Earl Warren, Jr. There was a judge on the Sacramento Municipal Court that ran . . . sat on assignment for the in-custody traffic and nontraffic misdemeanors. The arraignment . . . . It was an arraignment and a sentencing calendar. You know who I 'm talking about, in old Department A.

Tani Cantil-Sakauye: Oh, yes.

Rodney Davis: You know, it was a . . . . You know, it was one of these . . . . You'd have 200 to 300 people coming through for arraignment or a plea in sentencing on everything from urinating in the park to prostitution to in-custody traffic to, you know, graffiti and this sort of thing. And, you know, he was quite controversial, but he had been there forever. And nobody had the chutzpah to make him move out of that department, despite the fact that there were just constant complaints and, you know, his conduct down there did not reflect well on the court. And we had some pretty tough characters as presiding judge of the municipal court: Roger Warren; Ed Garcia – you know, former chief deputy district attorney and later federal district court judge. None of those fellows had the chutzpah . . .

Tani Cantil-Sakauye: To remove?

Rodney Davis: . . . to remove him out of that department. And sent . . . . Who comes along but, you know, the mild-mannered, weak – not weak – mild-mannered but very even-tempered Earl Warren, Jr. Finally gets a chance to become presiding judge. Earl tells Art he's got to leave.

Tani Cantil-Sakauye: Earl does it.

Rodney Davis: Yeah. I mean, can you believe it? All those other . . . . Well, the long and the short of it is, Earl Warren then turns to brand-new rookie Rod Davis and says, "Go down; you're going to take over Department A." So I go down there, and I walk in that back door in the basement, and my clerk Diane Amerson's there, and I say, "Hi," and she goes, "You better sit down." And I said, "Why?" and she said, "The courtroom is full of people and cameras."

Tani Cantil-Sakauye: Cameras?

Rodney Davis: Television cameras. And I said, "Why?" and she said, "Grandmothers For Peace yesterday sat down in protest and blocked the entrance to Mather Air Force Base and were arrested, and they want you to sentence them to jail over Mother's Day weekend." So . . . . 1:36:27

Tani Cantil-Sakauye: You have a way of making an entrance in courts.

Rodney Davis: Oh, lord. So, you know, I go in there, you know, and can just see the headlines. So they were a bit disappointed in that I sentenced them to community service for Meals on Wheels.

Tani Cantil-Sakauye: Didn't give them their day in the press?

Rodney Davis: No, no. So . . . .

Tani Cantil-Sakauye: Well, you were on muni court for a number . . . for about two to three years?

Rodney Davis: Year and a half.

Tani Cantil-Sakauye: A year and a half.

Rodney Davis: And Marvin Baxter called me and said, "The Governor would like to elevate you to the superior court." I said, "Thank you. I would love that, but I don't have 10 years of practice in yet."

Tani Cantil-Sakauye: Oh, I thought they might have . . . . Nine plus . . . . Okay, you didn't have 10 years in yet.

Rodney Davis: Right. So I said, "Well, I'll call you back in a few months." So after that – after I got my 10 years in – I applied for elevation, and . . . .

Tani Cantil-Sakauye: And you were on the superior court for how many years?

Rodney Davis: Three and a half.

Tani Cantil-Sakauye: Three and a half years? So a total of five years . . .

Rodney Davis: Five total, yeah.

Tani Cantil-Sakauye: . . . in the trial courts. And any memorable times in superior court?

Rodney Davis: Oh, yeah, yeah. I had a death case – capital case – that was, you know, certainly very formative. And so I actually had the opportunity, during my career, to sit on a capital case as a trial judge as well as a capital case sitting on assignment with the California Supreme Court.

Tani Cantil-Sakauye: Oh, I did not know that. So this is . . . . After superior court, then, you are appointed . . . nominated, appointed, and confirmed to the Court of Appeal. What year is that?

Rodney Davis: 1989.

Tani Cantil-Sakauye: And who were your colleagues at that time? 1:38:34

Rodney Davis: Art Scotland and I were appointed together.

Tani Cantil-Sakauye: Oh, I did not know that.

Rodney Davis: But I have to take a break.

Tani Cantil-Sakauye: Okay.

David Knight: We are ready.

Tani Cantil-Sakauye: Tell me about your time on the Court of Appeal.

Rodney Davis: Well, I, you know, I . . . . My first exposure to the Court of Appeal as a justice was as a pro tem justice when I was . . . shortly after the . . . I was elevated to the superior court. That was at a time when then–Chief Justice Rose Bird was having trial judges sit on short assignments in the Court of Appeal.

Tani Cantil-Sakauye: Oh, interesting.

Rodney Davis: And so her office called and asked whether I'd like to do that. I think it was three months.

Tani Cantil-Sakauye: A three-month assignment?

Rodney Davis: Uh huh. And so I was ready. What I had just . . . I had been sitting . . . . I did a couple of . . . . I was sitting as a family law judge, which was a rich, wonderful experience. And then John Sapunor, who was the presiding judge at the time, asked me to go up in the dead of winter, which I did, and try a murder case up in Oroville, in which the son of the chief bailiff was the defendant. And, you know, that was a grueling case. It was a terrible, ugly case in which the fellow actually killed this woman by driving over her body, as she was passed out drunk, from head to toe – literally from that direction, from the top of her head all the way down to her toe. But, you know, it was difficult for everybody because, you know, he was a young man with an impeccable military record and it was sad. So I was ready to tap it down a little bit at that time.

So the opportunity to go over to the Court of Appeal for three months appealed to me. So I did, and that was wonderful. That was at a time when the Court of Appeal operated a cold bench. What I mean by that was that there was not a tentative decision going into oral argument. What you did is, the research attorney that was assigned to work up the case for a justice would do so, and then you would meet the day before oral argument – the panel that you were on – and then you would brief the other two panel members on what the case was about orally, right there in the senior justice's chambers. And you would just kind of kick it around, like we would at a writ conference, and decide what we would likely do. And then we would go into oral argument and, you know, have our 1:41:49

oral argument. Then you would come out and then you would actually craft an opinion and circulate it and get it signed off.

Tani Cantil-Sakauye: That sounds overwhelming, for cases . . . when you have multiple cases coming on and no clear depth of what you might be dealing with?

Rodney Davis: It was not very satisfactory. The . . . .

Tani Cantil-Sakauye: So three months of that experience.

Rodney Davis: Yeah. The questioning of the lawyers was pretty superficial, because with the exception of the authoring justice – who, you know, had more of a grasp of what was going on – the other two justices really didn't . . . . All they were going on was if they got a chance to look over the briefs and what the authoring judge was . . . you know, kind of had informed them of. So I did that for three months and had an opportunity to get to know the justices at the time. So that was my first experience at the Court of Appeal. I had no intention on going to the Court of Appeal. I was having a wonderful time on the superior court. It was so . . . . Well, you know how it is. It's just high drama every day. At that time, they . . . all the criminal cases were divided up between two departments initially. And Department 1 and 2, it was Jim Morris, one of my dear friends, was in Department 2; I was in Department 1. So we handled all the superior court arraignments, all the pretrial motions, all the pleas at that particular point in time, all the sentencings off the pleas. And then you drew a trial in the afternoon. That's the way it worked. So it was . . . .

Tani Cantil-Sakauye: You had a good mixture.

Rodney Davis: You know, you'd . . . . I'd walk in every morning and – you were a prosecutor; you know how this was – I'd walk in, there would be . . . the place would be crawling with lawyers, all trying to get your attention. You know, you'd bring them in to the chambers, the place was jammed full of people; you know, it was very, very stimulating. And, you know, I loved it. You know, I had some wonderful lawyers try cases before me. That capital case, I . . . it, you know, had some wonderful lawyers that were a part of that. And I . . . . Fred Schroeder . . .

Tani Cantil-Sakauye: Yes, yes.

Rodney Davis: . . . was the prosecutor.

Tani Cantil-Sakauye: Good attorney.

Rodney Davis: And Clyde Blackmon was the defense attorney. Marvelous stuff. They . . . . You know, it was the best that the region had to offer in terms of trying a case. And so I didn't even 1:44:37

think about applying for these two positions at the Court of Appeal that had been . . . . They were new positions.

Tani Cantil-Sakauye: Oh, newly created.

Rodney Davis: Governor Deukmejian . . . . You know, it had been like two years and . . . or longer and he had let those positions go because, you know, nobody thought they were particularly needed. And Claire Cooper, who was the legal writer for the ***Sacramento Bee*** . . .

Tani Cantil-Sakauye: Yes.

Rodney Davis: . . . decided to do a story on these two positions – the fact that they had been left vacant for so many years. And then she speculated in her article on, you know, who was a likely person to fill those spots. And I was shocked, because she named me! And so then I thought, well . . . . I got it in my head, well, you know, these opportunities don't come along very often. And that's why I went ahead and applied. And that's . . . . Flanigan was the appointments secretary at that time when I went in for my interview. Looking back, I'm sure at those two interviews – first with Marv Baxter and then with Flanigan – I had to be so stiff. At the time, you know, I was still a relatively young guy; I wasn't even 40 years old at the time.

Tani Cantil-Sakauye: Is that right, when you went to the Court of Appeal?

Rodney Davis: Yeah.

Tani Cantil-Sakauye: I would . . . . My experience is, those . . . all those interviews are always stiff!

Rodney Davis: So that's . . . . That was . . . . Art Scotland and I were appointed together.

Tani Cantil-Sakauye: Together.

Rodney Davis: And, you know, that was good. The justices at the time were Keith Sparks – I'm just going in my head where their offices were. Keith Sparks and Hugh Evans. Bob Puglia was the presiding justice. And it was Fred Marler, Cole Blease, Rick Sims. And Art and I. And then Bert Janes was handling the settlements. And that . . . . By the time I got . . . . When I was appointed to the Court of Appeal, the court had just adopted the hot bench.

Tani Cantil-Sakauye: Oh, all right, the process.

Rodney Davis: Yes, it's the way that opinions were crafted and presented, you know, changed to what it is today.

Tani Cantil-Sakauye: An improvement in your mind, yes? 1:47:10

Rodney Davis: Certainly in terms of the quality of the oral argument and what we got out of it, I think it was clearly an improvement.

Tani Cantil-Sakauye: Now, you spent the bulk of your professional career, then, really at the Court of Appeal, because 20 – if my math is correct, which it hasn't been – but 20 years on the Court of Appeal?

Rodney Davis: That's right.

Tani Cantil-Sakauye: And can you tell me about how you evolved professionally, or any . . . .

Rodney Davis: Oh, my gosh, I forgot Frances Carr was also on the court.

Tani Cantil-Sakauye: There you go. That's right!

Rodney Davis: Yes.

Tani Cantil-Sakauye: The lone woman for many, many years.

Rodney Davis: Yes. Formidable. Yeah. So I . . . . You know, that was . . . . I remember sitting in those writ conferences and watching Bob Puglia, who had a photographic memory of case citations.

Tani Cantil-Sakauye: Incredible.

Rodney Davis: You know, we would be sitting there in that writ conference, and he would go, "You know, I think that is disposed of by ***People v. Carit*** at 54 Cal.App.3d, I think the . . . I think it's around 1158?"

Tani Cantil-Sakauye: That's formidable.

Rodney Davis: So we would walk over and pull this thing down, and sure enough. Sometimes he'd even get the jump cite. You know, that was, you know, kind of a sobering experience, being on a panel with Bob.

Tani Cantil-Sakauye: Sounds like it.

Rodney Davis: Yeah. Those were . . . . You know, people like Cole Blease were a lot less mellow than he is now.

Tani Cantil-Sakauye: I understand.

Rodney Davis: And so, like I shared with you earlier, we . . . . you know, I got the justices up. Frances wouldn't play, but the rest of us would play cards during the noon hours once a week, 'cause you know, it's . . . . You know how the Court of Appeal is. You can go for weeks without seeing a colleague. 1:49:07

Tani Cantil-Sakauye: Well, yes, and you came from the trial court. And you came from, it sounds like, a very stimulating controlled chaotic assignment, where you see many, many people a day and you make many, many decisions. And you wear your robe every day. How was it like making the adjustment to the Court of Appeal?

Rodney Davis: I thought I had made a mistake. I really did. For the first year in, year and a half, I thought . . . . Although there are times when the nature of the case is so intellectually intriguing that the time just flies by – all of a sudden, you know, it's 5, 6:00 at night and you go, "Did I just come here today? When did I get to work?" But, you know, realistically those cases, you know, are few and far between. A lot of the work at the Court of Appeal is . . . . You know, you see the same issues again and again. There is, you know, very little human contact anywhere near what the trial court was. And, you know, after coming in – out of such a stimulating environment – I thought, "Well," you know, "Is this really going to make me happy over the long haul?" 'Cause, you know, I was still relatively young. I remember coming home, around the dinner table, and, you know, my family would just roar at some of the stories from the trial court that I would share. You know, things like . . . that . . . you know, the lawyer – very prominent lawyer in town – that wanted me to step down his spousal support, despite the fact that he had entered into a marital settlement agreement that said that his wife's spousal support was, say, $10,000 a month, and it would step down considerably to $5,000 if she lived with a man for more than 90 ***consecutive*** days. Well, you can see what happened there. On the 85th day, her boyfriend would move out. And so he was complaining that she wasn't adhering to the spirit of the agreement. So these were fun, hilarious stories. Then I was suddenly coming home to my family and telling about my fascinating case involving a challenge to unitary taxation. And I remember my little . . . my then-young son going, "Dad, do you really ***like*** what you do?" Well, I'm sure this happens to many, many Court of Appeal justices. After about the first year and a half, you suddenly realize that from a lawyer's point of view, this is the greatest job on the planet. Right?

Tani Cantil-Sakauye: Yes. It . . . . Yes.

Rodney Davis: You settle in, you develop an interest in particular kind of, you know, threads of legal analysis and subject matter, and then you have an opportunity to get involved with kind of the . . . some of the administrative aspects of running the huge California judiciary, which I had an opportunity to do. And that was, you know . . . . So for the past 18 years, certainly, I've felt very blessed, yeah.

Tani Cantil-Sakauye: And the blessing seems to grow with each year, it seems. 1:52:45

Rodney Davis: It does. My colleagues have been memorable and, you know, influential in terms of forming me. One of the stories that I think I may have shared at . . . with the bar association: I can still remember Frances Carr coming into my chambers and breaking down in tears as she reminisced about being a high school student in El Centro, California, when one day she heard in class, over the loudspeaker, a directive from the principal for everyone to go to the school gymnasium. And at that point, all her Japanese-American classmates were directed to one side of the gymnasium, and then they marched them out and onto the bus to be take away to relocation camps. Not relocation. What would you call them? Detention centers. And how, you know, she was quite weepy about it. You know, she pointed out . . . . She said, "These were people that we, you know, went to church with, went to sporting . . . high school sporting events with."

Tani Cantil-Sakauye: Right. They were community.

Rodney Davis: And she said, you know, what was so sad and tragic to her is there was no community reaction. Here these close friends and neighbors were suddenly ripped out of the community, and the people of El Centro – including her parents, who were left – said next to nothing, despite the fact that, you know, there was a vacant spot in the next pew. So that was an experience. During those early years . . . .

Actually, one episode that occurred when I was relatively new still kind of sticks in my craw. It was up in Frances' chambers. I can't recall who the third justice was. You know, I was new. And it was a decision whether or not to challenge a trial court's decision not to grant a continuance to the lawyer representing this young man who was charged with killing his parents. It was out of Siskiyou County. And the defense attorney had requested a continuance in order to further investigate how old the young man was. He was adopted from the Philippines, and if he was a certain age he'd be handled as a juvenile with far less significant consequences. And if he was the age that was reflected on the adoption papers, he would be tried as an adult. And the judge denied the continuance, despite the fact of a showing that there were relatives in the Philippines – biological relatives in the Philippines – that said that the adoption papers were mistaken, that there was some sort of mistranslation of what they told the adoption authorities, and that the child was actually born on such-and-such a date, that would make him a juvenile. And, you know, I just didn't have enough gravitas in that environment, when I was brand-new, to convince either one of my colleagues to challenge the trial judge's decision, which had huge consequences. And, you know, it's an example that interpersonal relationships, and kind of history with one another as colleagues, can make a difference. I am convinced, to this day, that if the same circumstances . . . case 1:57:03

was presented to me after I had had 10 or 15 years on the Court of Appeal, that I could have very easily convinced my colleagues to challenge that one.

Tani Cantil-Sakauye: Yeah, I know what you're talking about, about the growth. And it's interesting that you look back . . . that you say that, and you look back in retrospect and see those cases where you might have behaved differently because you've had time and growth, and your colleagues have also had time with you, also, to hear you. Are . . . . Do you have other cases that stand out in your mind?

Rodney Davis: Well, you know, I have evolved in terms of the death penalty. You know, I was a prosecutor my entire legal career as a lawyer. I had no qualms about the death penalty. You know, as a trial judge, I presided over that death case. I remember in the death phase of, you know, the phase that . . . the proceeding in which the jury was asked to decide whether or not the death penalty was appropriate, I remember, you know, really being concerned because I felt that at least in that particular case . . . . It was a murder that this Archie Shank had committed – his second murder. He had been convicted of murder initially, served his time, got out, and murdered another man. But all things considered, this was not a death penalty case. You know, it was a life-without-possibility-of-parole case. And I was wondering, you know, this is going to make it very difficult if the jury comes back with a death sentence. But, you know, they did the right thing: they came back with a verdict of life without possibility of parole. So that was my exposure to the death penalty, and one of the nice things of the Court of Appeal is we're . . . you know, we do not have to deal with that. You know, those cases go to the California Supreme Court.

Tani Cantil-Sakauye: Yes.

Rodney Davis: And then, you know, I was assigned to the California Supreme Court. I served there twice: once on a civil case, and secondly on a capital case. I found that quite interesting, in that the dynamics were quite different, and I felt it was due to the relationships between the Supreme Court justices.

Tani Cantil-Sakauye: Both times where you sat there, you thought the dynamics were different from the Court of Appeal?

Rodney Davis: No, from the two cases.

Tani Cantil-Sakauye: Oh, oh, oh, from the . . . .

Rodney Davis: You know, the first case was a civil case construing a, you know, kind of a bizarre statute involving a . . . you know, some auto sales. And that was at a time when Janice Brown – Janice Rogers Brown – was on the court. And as you'll recall, 2:00:27

Janice did not have the best relationship with her colleagues. And, you know, you hear argument . . . . What had happened was all of us reached a tentative . . . . You know, the draft was circulated, you signed off initially on whether or not you agreed with the proposed decision, and if you didn't you filed, you know, one of those green forms indicating why. It's really, I thought, quite strange – not a desirable system, in my judgment, in that the only person that filed a memo disagreeing with Janice Rogers Brown's proposed majority opinion was Justice Kennard, I believe. Everybody else didn't express any problems with her proposed decision. And I thought it was sound. And then we go to oral argument and listen to arguments, then we go back afterwards and sit around a table. And the atmosphere was so icy. I mean, it was the way people spoke with one another – specifically, you know, the way that Kay Werdegar and Joyce Kennard, you know, related to the things that Janice was saying. Chief Justice George kind of . . . was acting in kind of a way that was kind of a peacemaker type of . . . you know, keeping things calm. But it was just . . . you know, it was not a free-falling, easy collegial type of discussion. Everybody was making little speeches.

David Knight: I'm going to stop you here and change tape. Okay.

Rodney Davis: Ming Chin and Marvin Baxter had disqualified themselves for some reason or could not sit. And so Frank Elia from the Fifth DCA was there . . . Sixth DCA was there. And so it kind of took me by surprise that there was, you know, this kind of iciness. But still, it appeared to me that nobody with the exception of Joyce was expressing any, you know, clear-cut feeling that they weren't going to stick with Janice's opinion. And so, just time went by, and within just a couple of days before the 90th day, when we had to get an opinion out, I get a call from the Supreme Court indicating that a majority – ***everyone*** with the exception of Janice and myself – had changed their mind and that (I forget who ultimately wrote the opinion, I think it was Joyce) . . . going the other way. And that Janice was going to be in dissent, and that would I come down and sign the opinion. They didn't even ask me whether, you know, what it was that . . . . You know, I said, "Well, I'd like to see the proposed majority opinion."

Tani Cantil-Sakauye: Yes, "I'd like to see them all."

Rodney Davis: Apparently there was a significant, you know, exchange of views that convinced people otherwise that I was just out of the loop on. You know, I never did understand why Frank, you know, suddenly backed off and signed with the majority. I was still convinced that Janice was right, and so she and I were in dissent. But it was . . . . I thought, "This is not . . . . This is making sausage here." Now, here it is years later I'm on that capital case. Now Janice is no longer on the bench; Carlos Moreno is on the bench. Marv and Ming Chin are on 2:04:55

the panel. I'm trying to think who I replaced. I guess I replaced Ming. Ming maybe was not . . . . I can't recall who I replaced. The Chief Justice was there. Carlos Moreno was the assigned author on it. And, you know, the court was just very collegial. I had a number of concerns about the draft and prepared a memo accordingly, and they were graciously incorporated into the final decision. And after hearing argument, you know, we went back into chambers and, you know, it was just very constructive, positive, collegial.

Tani Cantil-Sakauye: How interesting.

Rodney Davis: The way that you would hope it to be. And, you know, in looking back upon it now, I think much of it had to do with just the personalities of the judges that were participating in the process. I think Carlos . . . . I mean, I loved Janice, and . . . but for whatever reason, my sense was that her tenure on the court created a dynamic that wasn't that wonderful, where . . . .

Tani Cantil-Sakauye: There's a history there.

Rodney Davis: Yeah. Where there was a history involving all kinds of things that, you know, somebody else can talk about concerning, you know, her approach to the retention election and Ming Chin and Ron George deciding to, you know, raise money and do a little campaigning, and then of course she got the most votes of any justice in the state.

Tani Cantil-Sakauye: And did nothing.

Rodney Davis: You know, there were all kinds of things. But clearly Carlos Moreno, you know, was a very constructive personality . . .

Tani Cantil-Sakauye: Yes, yes, he is.

Rodney Davis: . . . that created a good dynamic to that court.

But getting back to my evolution in the death penalty, that was an absolute horrible set of facts that I encountered n the Supreme Court. This fellow was the . . . . It was a multiple murder case where he brutally, brutally killed three women in ways that are, you know, absolutely shocking and disturbing. You know, with tape recordings that . . . when the killing was going on and begging for their lives and, I mean, just terrible stuff. And the legal issues were of no great consequence. So, you know, I voted for . . . to affirm the death penalty. After that, you know, I entered, you know, this lengthy seven-year period of discernment to become an Episcopal priest. That occurred after that involvement. A priest friend of mine came down for lunch. To make a long story short, you know, way back in the 1970s I had considered the possibility of leaving the law to go to seminary. And I had explored that – went 2:08:26

down to Berkeley to take a look at the seminary. That was when I was in the A.G.'s Office. But then my career took off, and we had . . . I had my sons, you know . . . .

Tani Cantil-Sakauye: Right. Your family's growing.

Rodney Davis: The whole thing. And I kind of put it . . . tapped it down. And this priest friend of mine said, "You know, this has been a recurring idea that has tugged at you. You need to enter a period in which you really actively explored this." So with her, another priest, my bishop, I entered into a two-year directed discernment effort to see whether this was something that I needed to do, concluding in a mutual decision that I needed to pursue it. And so then I . . . after going through a lengthy process of review with parish and diocesan commissions and the endorsement of my bishop, I was down and enrolled in a part-time program down at seminary.

Tani Cantil-Sakauye: Is that in Berkeley?

Rodney Davis: In Berkeley.

Tani Cantil-Sakauye: The same school you had looked at?

Rodney Davis: Right, all those years before. And so, you know, on a part-time basis it took five years for me to get my degree.

Tani Cantil-Sakauye: Well, you had a full-time demanding career going on.

Rodney Davis: So it was a lot of burning that midnight oil up Highway 80. And . . . . But during the course of that, during my fourth year of seminary, I took a course in Anglican ethics. And the theologian that I took that course from had a very challenging approach to ethics. What he did is he passed out a list of topics that went on for pages and had us select one of them. And I selected capital punishment. And then during the course of the semester, you know, we covered everything – you know, all kinds of theologians that addressed religious ethics, going, you know, going back to, you know, the fourth century right up to the present. And then, you know, whether your topic was hunger or, in my case, capital punishment, what you did is each week you would read whatever theologian it was, like William Temple or Stringfellow, as an example. And then you would have to write an essay addressing your views on how that theologian would come out on your subject.

Tani Cantil-Sakauye: On your issue.

Rodney Davis: And then this culminated in a final paper in which you had to take a position yourself, doing an analysis of, you know, both the pros and cons from a theological perspective and how you came out in it. Well, the long and the short of it, Tani, is we . . . at the end of that, I concluded that there was just no 2:11:58

persuasive justification in . . . at this time in California, given the realities that our society is facing, that could justify the state taking another life. I . . . . So, you know, had I this experience – this opportunity to really grapple with the issue, both personally and intellectually, not just from a, you know, legal point of view – before I was assigned to that death case, I would not have accepted that appointment.

Tani Cantil-Sakauye: Did you know when you picked that issue from the topics for the ethics, did . . . had you been . . . had you concerns about that issue?

Rodney Davis: I wanted to test myself. You know, here I was, I had sat on a death penalty case and actually voted to execute this man. So I was going in with the perspective that I could garner and construct some theological support for what I had done – participated in the process of affirming the decision to execute this man. Disturbingly, you know, I came out at the end of that process concluding that the decision was inappropriate. You know, it's something that I have to live with, but . . . . So that, you know . . . . I think we change.

Tani Cantil-Sakauye: Absolutely.

Rodney Davis: I've seen it with my colleagues, I've seen it with myself, you know, time and again. And both ways. I've seen, you know, colleagues that were far more sensitive and attuned to over-reaching on the part of government when I first arrived at the court 20 years ago are markedly less so now. And other colleagues have gone in the other direction. I've sensed it myself. When I was looking at this binder of my published decisions, kind of looking at the trail of what decisions I elected to publish and what I didn't, and how I came out on it, I find that I have become, you know, far more sensitive to government over-reaching and far more willing to reverse or challenge government action than I was initially. And far more convinced that as appellate justices we have a unique responsibility to look close and thoroughly at government action, because I think certainly the Court of Appeal – in contrast to the Supreme Court that, you know, hears so few cases – we are the, you know, a primary guarantor of fairness in our system and in our society. And I'm convinced that I'm a far better . . . I was . . . I've been a far better appellate court justice my last 10 years than I was my first 10.

Tani Cantil-Sakauye: I appreciate hearing those comments. And let us know now what you're up to.

Rodney Davis: Well, I think I'm going to be a parish priest. I was . . . . After this seven-year period of preparation and discernment, I was recently ordained as a transitional deacon in the Episcopal church. And what the Episcopal church does is that your first . . . . There are two types of deacons. A deacon in the 2:16:26

church assumes the role of calling the faithful to look outward toward meeting the needs of the marginalized, victimized, and, you know, at-risk segments of our society. There are people in the church that are permanent deacons; it's what they're called to do and ordained to do. And then there are people like me that are . . . you know, have concluded, and that's been affirmed, that their call is to the priesthood. And what our church requires is that you serve a period of time as a deacon before you become a priest. So I have been ordained a deacon. I'm scheduled to be ordained an Episcopal priest in . . . on January 9th of next year. And I will start my job in a local parish as an associate . . . well, first as a deacon, and then it's going to . . . I'm going to be an associate priest in January.

Tani Cantil-Sakauye: Will that be here in the Sacramento area, or do you know this?

Rodney Davis: Right here in Carmichael.

Tani Cantil-Sakauye: How wonderful.

Rodney Davis: Although I have . . . . The bishop has asked me to explore both supporting him in various special projects that he may have, providing him with a legal perspective that he might not otherwise receive from the chancellor. I've asked to be considered to help out at parishes that are essentially church plants – new parishes that could use somebody to help out the solo priests that are . . . you know, have no opportunity to get away and get recharged and refreshed. In fact, I just received a call on the message machine from the clergy at a little startup church in Rio Vista, and she wants to ask me whether I can help out. And there's another church that's being planted up in Rocklin that I think I'm going to try to help out with.

Tani Cantil-Sakauye: It sounds in many ways like you've come full circle. When you were a little boy, you were on the circuit and you visited and your mother heard the needs of what those communities needed. And now you're doing the same in a different capacity, but still serving the needs. We'll miss you on our bench, but after talking with you today, I think the community is a better place for you to be retired and actively involved in helping people.

Rodney Davis: Well, thank you, Tani. You know, this has been a, you know, a marvelous opportunity. Thanks for giving me a chance to reminisce.

Tani Cantil-Sakauye: I've enjoyed it very much. Thank you very much. I could talk to you all day.

***Duration: 140 minutes***
***July 15, 2009***