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Dedication of the New Flag for the U.S. Court of Appeals for the Eleventh Circuit

Delivered in Atlanta, Georgia on October 25, 2004

HONORABLE J.L. EDMONDSON

Today we dedicate the new flag of the United States Court of Appeals for the Eleventh Circuit. I want to speak to you for a few moments about the history of the events which the new flag will symbolically memorialize. These events began on December 16, 1989, and ended about September 15, 1990. The story I am going to tell you today is a very American story. It begins with a great tragedy which is still a great tragedy today. But it ends with evidence of triumph.

On December 16, 1989, which was a Saturday, Judge Robert Vance and Mrs. Vance were at their home outside of Birmingham, Alabama and the United States mail delivered a package to Judge Vance. The package had the appearance, because it was mailed from Newnan, Georgia, as being a package mailed from one of Judge Vance's colleagues on this court, Judge Morton. The package contained a bomb. A particularly and utterly savage kind of bomb designed to explode when the package was opened. Judge Vance did open the package. There was a terrible explosion. Judge Vance was killed. Mrs. Vance was very seriously injured. We had memorials to Bob Vance at the time and today is not actually a memorial for Judge Vance, but I want to talk to you a little bit about Bob Vance because the modification of the flag has more than a little bit to do with Judge Vance.

Judge Vance was a fine judge and a wonderful colleague. He was smart, he was courteous to his colleagues, and he could tell really funny stories, which was a great trait in a colleague in a multijudge court. Before he came to this court he had been an active practitioner at the bar and had played a prominent role in public and political life in Alabama. At the time when Bob was most active in politics, the civil-rights unrest in the south was still simmering. And Bob made his mark as a peace maker and conciliator in that context before he came here. Bob was a Christian. I doubt that he was afraid to die, but I'm sure he hated to die. He had a devoted wife, two sons who were of the age to begin to develop their professional education, their professional careers. Bob was the kind of man who loves life, he lived it with gusto, he had interests, he had hobbies. The ending of his life and the way it was ended was then, and will forever be, a cause of outrage and deep sadness on the

part of all of us who had the privilege of knowing Judge Vance. When Judge Vance died, because two of our colleagues had taken senior status earlier in the fall, the United States Court of Appeals for the Eleventh Circuit was left with only nine active judges.

I've talked to you about the events of December 16, which was a Saturday. Now let me talk to you about the events of December 18, the Monday that followed it. The first thing I want to stress to you is the courthouse here was open. The court was open to do the public's business. Our mail was delivered to this building and in the course of having it inspected, the court security officers detected a package which was another bomb. I want to stress to you: It did not look like a bomb. And I want to stress to you how this parcel was addressed: This parcel was addressed to no judge. This parcel was addressed to the clerk's office. It was designed to explode upon being opened and had it been undetected and opened it would doubtlessly have killed or seriously injured many employees in the clerk's office. It was detected and, because it was detected, in fact, over time the FBI and other investigators were able to gain a great deal of evidence from that package. Later on that day, Monday, December 18, another package was sent to a law firm in Savannah. It was addressed to a lawyer. He opened the package. There was an explosion and he was killed.

On Tuesday, December 19, other judges of the United States Court of Appeals began to get letters addressed to them individually which quote "promised to assassinate you." Later that day, yet another bomb was delivered to the office of a civil-rights organization in Florida. It was detected as a bomb and was not opened. But by December 20, these were the facts facing the United States Court of Appeals: a person or persons unknown had killed two people, had severely wounded a third, had tried to kill many others, had promised in writing to kill still more, and, perhaps most important to those of us who were here at the time, the person or persons involved made it crystal clear that they were willing to kill family members or employees to get at the judges. This is an event without precedent or parallel in the history of the United States courts.

Regrettably, other judges have had their lives taken away from them on account of their service to the country. But in those instances, always or almost always, it was a shooting. The person went after a judge and killed the judge. It was not a bomb, an indiscriminate weapon, sent to someone's home. And, frequently in the case of attacks on judges in the past, the identity of the perpetrator was known almost instantly. There has since been another outrageous attack on a midwestern district court in which a man who had a gun killed or wounded

several court employees. It was a terrible tragedy. But he himself was killed on the spot. And the point I make about that is it did not linger and hang over for months at a time.

Let me talk to you a little bit about the impact of these events on this honorable court. Let's talk about the clerk's office for example. The clerk's office at that time had working space even more crowded and cramped than it has now. The clerk's office found itself not only the center of one of the busiest federal courts in America, but it found itself at the center of an ongoing and massive criminal investigation. That meant that in addition to all the people that worked in the clerk's office, and all the work they were doing in processing the thousands of cases that come to us, FBI agents, handwriting experts, and people of that nature were working in the same space that they were working in; and, were making demands on the clerk's office because one of the things the FBI and others wanted to know was what cases Judge Vance had worked on. And they wanted to see examples of typewriters, typewriting, and handwriting in these files. So in addition to processing all the files that you would have to do in a busy court, our clerk's office was also pulling files for the FBI. The files, when they were pulled, were kept separately and kept out. So every day when a clerk came to work they not only had their regular work to do, they were not only called on to assist the FBI who were there in their midst, but they could look around them and see physically a reminder of the attack on Judge Vance, Mrs. Vance,—an attack made by people against the court and the clerk's office itself.

There was extra work in many other ways. The people handling the mail had to handle the mail in a different and more elaborate way than we had before because of the criminal investigation. And even the simple act of answering the telephone became more complicated because so many of the phones had recording devices on them that had to be available for use if a threatening call was made.

Let me talk about the judges and their families. And I want to talk especially about their families. I have said at other times and other places that when a person becomes a federal judge it very often is a family commitment. I once had a friend whose father was a Presbyterian minister and he always talked to me about when your father is a minister the whole family is involved in the process. And that I think is very true of federal judges as well. Beginning on the evening of December 16, the judges of this court and their families had United States marshals with them, night and day, twenty-four hours a day, for about nine months. I don't know how many of you have had the opportunity to be under protection. Even though the marshal service is very good about

attempting to be unobtrusive, there is tremendous loss of privacy. If you and your wife want to go to a party, you and your wife and two marshals go to the party. If you and your wife go to the movies and you get up and go to the men's room, two men follow you out. And it's not for a week, two weeks, or three weeks. It's for month after month. I'm a sports-car enthusiast and I have a little two-seat sports car and because the marshals could not ride in it, it was not driven for nine months and I had to get a new battery. And every judge who was involved, and the spouse and children of every judge involved can tell you a story about inconvenience of having every move surveilled, of being watched by the marshals who were again there for our protection and we were grateful to have them. But I want you to understand this is a difficult, difficult thing. And it is a constant reminder that there are people out there unknown who have killed people, who have said—or to use their words—promised they will kill you. And have already shown that it would not bother them to kill your wife or your child in the process.

I should stress that the letters threatening the other judges were compared to the typewriting and handwriting on the packages and so the FBI was able to determine immediately that the threatening letters were not cranks or copycats. These were the same people who had killed two people already.

Now having marshals with you all the time is not totally bad. I had a twelve-year-old daughter living with me at the time and she would get up in the middle of the night and go down and play checkers with the marshals. There was always someone to play with. It wasn't all bad. The marshals who protected the various judges thwarted all kinds of other crime, mostly burglaries, in the neighborhood. I was the most popular guy in my neighborhood because they had police protection there that you could not buy otherwise.

Let me talk to you a little about why I say the story ends on a triumphant note. Not so triumphant as to ever lessen one bit the tragedy. But triumphant, I think, in a real way. The avowed purpose of the bomber, or bombers—they were prolific writers (they wrote other people about what they were doing as well)—was to intimidate and interfere with this court. Well, they failed miserably.

Let's talk about the staff again. During the pertinent nine months, notwithstanding the fact that a bomb had been sent to kill staff, we did not have an unusually high absentee rate nor turnover rate. People came to work and did their job—a job which I think is pretty hard under the best of circumstances. They came to work and did their job notwithstanding the threats and terrible violence that had occurred.

The court: No oral argument session was cancelled. All the oral

arguments were moved to Atlanta for security reasons, but none were cancelled. And during the nine months in question we heard 763 oral arguments. During the months in question we issued 1346 written opinions. Now to be fair, this was fewer opinions than we had issued in the preceding nine-month period. Something less than 2% fewer. And in the preceding nine-month period we had twelve judges for almost the entire time. And we terminated on the merits 1590 cases—about 3% fewer than we had terminated in the preceding nine-month period. I believe all fair-minded people would say for a court that had nine active judges and was dealing with the problems this court was dealing with, this was extraordinary performance.

Of course we had great help. We had, for example, a good number of senior judges at that time. The senior judges by the way had also been threatened with death. They pitched in and worked very hard. We had good leadership. Judge Tjoflat was our chief judge at the pertinent time. I think he had been chief judge for about six weeks when this happened. I always tell Gerry, judges on the same court of appeals disagree about stuff occasionally. And every now and then, Gerry will write or say something that just aggravates me to no end. And every time he does that I think about Judge Tjoflat as chief judge of this court during this very difficult and dark time and I always decided maybe I'll cut him some slack.

In addition to the senior judges who labored so hard to help us, we had visiting judges from outside the circuit to come help us. We had fourteen visiting judges to come from seven different circuits. Now those of you who are familiar with our court know that we have visiting judges come all the time. In the preceding nine months we had fifteen judges to come and during the nine months in question we had fourteen to come. But here is the point I would like to make: No judge who had committed to come before these terrible events began backed out of coming. They all came. They came to the fight. They did their job. They helped us. And to the extent that we were successful we have to remember that we had no monopoly on working under adverse conditions, because some people came here who did not have to come at all.

It is this extraordinary history that led today's court to decide to modify the court's flag to memorize symbolically, forever, the sacrifice and the fortitude that was shown here to carry out the mission of this great court to serve the American people.

But I want to stress yet another thing. While we faced extraordinary and even unique challenges as a court, the story of our response to this challenge is not how special we were. The story is how typical we were. We behaved under pressure in a typically American way—the

way from the colonist to this day with an important job to do for their beloved country and for their fellow Americans. So when you see the red stripe on our new flag we don't say we're special, we simply say we belong.

Now one last point. The story I've told you and the reason we decided to change our flag was not just to honor the past. We have cause to be proud of our past, but it is, after all, the past. We have modified our flag not just to honor the past but to inspire the future. Because we can be certain that the men and women of this court, if not the court itself, will face other difficult days in the future. Maybe not like those days, but other challenges of other kinds. And if not challenges to the institution itself, then hardships and difficulties in their own lives. It was our hope that those people, now and in the future, can look up from their desk and see this red stripe on this flag and remember that hardships can be overcome and that the best days of this court and of this our beloved country are always ahead of us.