

# Chief Federal Judge in D.C. Resigns after Lawsuit Accuses Him of Rape

by Christopher Zoukis

**T**HE CHIEF JUDGE OF THE U.S. DISTRICT Court for the District of Columbia, Richard Roberts, 63, unexpectedly stepped down on March 16, 2016. Although the official reason for his departure was listed as an undisclosed disability, Judge Roberts' early retirement came the same week a lawsuit was filed accusing him of sexually assaulting a minor 35 years earlier.

Attorneys for Roberts acknowledged that he had an intimate relationship with the then-16-year-old girl, but denied the rape allegations as "categorically false."

According to the suit, which seeks \$25 million in damages, Terry Elrod Mitchell, a witness in a 1981 criminal case being prosecuted by Roberts, was a vulnerable teenager with a history of sexual abuse when they met. Mitchell claims that Roberts used his access to her mental health records to deceive her, after which he drove her to a hotel, forced her into a room and then raped her.

The complaint alleges that Roberts "intimidated, coerced and manipulated Mitchell to have sexual intercourse nearly every day for several weeks." Roberts is accused of using the threat of a mistrial in the criminal case as leverage to continue their relationship.

That prosecution launched an illustrious legal career for Roberts, known as Ricky, who was then 27 and unmarried. The defendant in the criminal case, a self-avowed white supremacist named Joseph Paul Franklin, had previously shot and paralyzed *Hustler* founder Larry Flynt. Mitchell was in a Salt Lake City park when Franklin shot two of her friends, at such close range that she was injured by shrapnel.

The Department of Justice, under Jimmy Carter's administration, sent Roberts to Utah to try the case under a then-novel approach: That Franklin had targeted and shot the victims because they were black.

"Rick was the kind of intellect you needed," said former federal prosecutor Barry Kowalski, who later headed an unsuccessful attempt to try Franklin for shooting civil rights leader Vernon Jordan, Jr. — a crime to which Franklin later admitted.

Roberts allegedly contacted Mitchell twice during the 35 years since the alleged

rapes, once in 1985 and again in 1998, roughly corresponding with the dates of his marriage and his appointment to the federal bench. Mitchell's lawsuit claims she repressed her memory of the sexual abuse.

Memory repression is a common response to a traumatic experience, according to Candice Lopez, director of the National Sexual Assault Hotline.

"But those events come back later when they're triggered — when something mirrors the event that happened."

Joseph Paul Franklin was executed in Missouri in November 2013, and Roberts notified Mitchell by email. That, she said, was the catalyst that released her repressed memories of being raped by Roberts during Franklin's trial decades earlier.

Roberts' response to Mitchell's lawsuit categorizes their contacts in 1985 and 1998 as "warm," though Mitchell referred to them as "weird."

"He kept asking, 'So we're alright?'" she recalled.

Meanwhile, Roberts' career soared. He was part of the team that successfully — and famously — prosecuted then-D.C. Mayor Marion Barry for smoking crack. Roberts was appointed to the federal bench in the District of Columbia by President Clinton in 1998, which paved the way for him to become Chief Judge of the D.C. District.

His attorneys issued a statement denying all wrongdoing.

"Roberts acknowledges that 35 years ago, as a junior prosecutor, he had an intimate relationship with Ms. Mitchell, who had earlier been a witness in the [Joseph Paul] Franklin trial. But contrary to the allegations, this relationship was entirely consensual. Roberts acknowledges that the relationship was indeed a bad lapse in judgment. However, the relationship did not occur until after the trial and had no bearing on that trial."

Yet Karma Jones, a friend of Mitchell and the only other eyewitness to the murders that Franklin committed in the Salt Lake City park, told Utah investigators in 2014 that Mitchell said Roberts "was going to make sure that she was OK getting through the court proceedings ... and

... he was her boyfriend because they were having sex."

Mitchell's mother, Carolyn Gentry, said during the same 2014 Utah investigation that she grew suspicious of the time her daughter was spending with Roberts.

"It seemed like right before the trial it was bang, bang, every night she was there," she stated.

Mitchell eventually told her mother that she was having sex with Roberts. Gentry, a single parent who was working three jobs, did not intervene to end their relationship.

"I think I was intimidated by his position," she said. "You know, you just, someone with authority, you just kind of let things be."

Gentry died in 2015.

Judge Roberts was investigated in 2014 by the Utah Attorney General's office, but not criminally charged with having sex with Mitchell because the age of consent in Utah was 16 at the time. Regardless, as special investigator Paul Cassell noted, "Unsurprisingly, the rules of ethics do not permit a prosecutor in a criminal case to have sexual relations with a witness and then ask her questions" at trial.

Had Roberts remained on the federal bench in D.C., he may have faced a congressional inquiry as a result of Mitchell's lawsuit. Rep. Jason Chaffetz, Chairman of the House Oversight and Government Reform Committee, expressed shock at the allegations.

"The Utah Attorney General recently made the committee aware of credible evidence of misconduct by a U.S. District Court Judge. This matter dates back to 1981 when, as a DOJ prosecutor, the judge is alleged to have engaged in inappropriate behavior with a 16-year-old female witness. We will work with the House and Senate Judiciary Committees to determine next best steps to ensure justice is served," Chaffetz said.

Since then, Mitchell voluntarily dismissed her first complaint but filed another lawsuit on July 29, 2016. A new child sexual abuse law is now in effect in Utah, which states that anyone who was sexually abused as a minor has 35 years from the time of their



prison population and receive \$40 to \$60 per diem for each state prisoner, depending on their security level.

Oklahoma claims it spends more than \$100 a day to house a maximum-security prisoner at a state facility, though Allbaugh admitted there are inefficiencies that could be addressed which might reduce that cost. He added the state's prison system has over \$750 million in deferred infrastructure maintenance and repairs.

"The walls are crumbling and we continue to throw good money into obsolete equipment to get through the day," Allbaugh said. "The overwhelming majority of the state's prisons were not built to be prisons ... they are retrofitted boy's homes or hospitals. Even some of the facilities that were built to be prisons are over 100 years old. We have converted every gym, dayroom and other common areas to house the population."

Until funds are available for the state to build its own facilities, he said Oklahoma will continue to rely on private prisons – which have been criticized for several incidents.

For example, four prisoners died in a

clash between rival gangs at the CoreCivic-run Cimarron Correctional Facility on September 12, 2015. It was the single deadliest prison incident in Oklahoma's history. [See: *PLN*, April 2017, p.63]. Further, at least four prisoners were killed in separate incidents at CoreCivic's Davis Correctional Facility from 2014 to 2015.

Prisoners and their families have also complained about inadequate and substandard food at private prisons as well as other issues, such as locking prisoners out of their cells during the day.

Meanwhile, according to February 2017 news reports, CoreCivic is proposing to acquire the state's second-largest provider of halfway houses. If the purchase of California-based Center Point, Inc. goes through and is approved by the OBOC, CoreCivic would own 70 percent of all halfway house beds in Oklahoma.

Not surprisingly, CoreCivic and GEO Group have invested heavily in lobbying and political campaign contributions in Oklahoma. GEO donated \$25,000 to Governor Fallin's 2015 inauguration while CoreCivic gave \$10,000. GEO also contributed \$5,000 to the 2015 Oklahoma

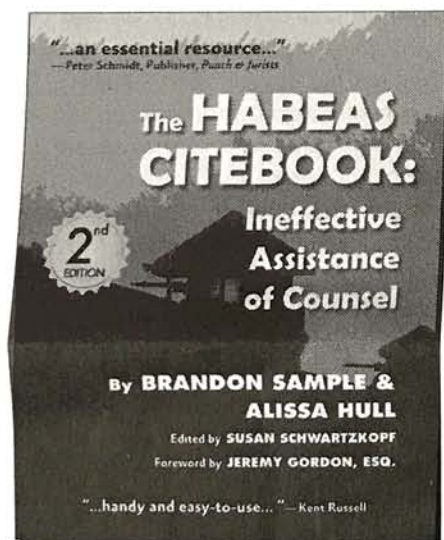
Speaker's Ball.

According to ethics commission reports, GEO's political action committee made donations ranging from \$1,000 to \$5,000 in 2015 to groups representing Rep. Jon Echols, Senator Greg Treat, Senator Randy Bass, Rep. John Michael Montgomery, Rep. Ann Coody, Rep. Jeff Coody and Senator Kim David.

Rep. Echols introduced legislation that changed state law, allowing GEO to reopen its Great Plains Correctional Institution in Hinton; the company then cut a deal with the federal Bureau of Prisons to house prisoners at the facility. The bill also removed certain Oklahoma Department of Corrections oversight measures.

State prisoners from the Oklahoma State Reformatory were moved to the North Fork Correctional Facility, which the state leased from CCA under the OBOC's plan, beginning in July 2016. The five-year base term of the lease will cost the state an average \$7.5 million per year. ■

Sources: [www.newsok.com](http://www.newsok.com), [www.tulsaworld.com](http://www.tulsaworld.com), [www.koco.com](http://www.koco.com), [www.oklahomawatch.org](http://www.oklahomawatch.org), [www.globenewswire.com](http://www.globenewswire.com)



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