



Hon. Joshua M. Kindred

U.S. District Judge, District of Alaska

by Darrel J. Gardner



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Joshua Michael Kindred received his federal judicial commission on Feb. 8, 2020, as district court judge for the District of Alaska. He replaced District Judge Ralph R. Beistline, who assumed senior status on Dec. 31, 2015.

Judge Kindred was born in North Carolina in 1977. His father was in the Air Force, and his family “sort of bopped around the country” during his early years. He spent most of his elementary school days in Augusta, Ga., but after his father received a transfer to Elmendorf Air Force Base, the family moved to Alaska. He recalls:

My parents come from very humble beginnings, and most of my childhood, my mother was a stay-at-home mom, but she was going to college at night. By the time we got up here, she had received a degree in respiratory therapy, and began working. My whole family fell in love with Alaska. I sort of knew at the time that this was my home, my place. I went to Wendler Junior High and Bartlett High School, and my dad decided to retire about the time I was in high school. I can’t say that at any point in my early years I had particular plans or ambitions professionally. I came from a family where college wasn’t a necessity, even though my mom had gone. I don’t know that there were a lot of people in my mother’s or father’s family then who had gone to college.

Judge Kindred recalls that when he was in high school, he was a less-than-stellar student who hadn’t yet formed any plans or ambitions. After high school, he was working full time at a hardware store, and began looking around and wondering whether that was what he wanted to do for the next however-many years, so he decided he should go to college. He started going to the University of Alaska, Anchorage and was still working full-time. He says, “Things were starting to click a bit, and some of the classes I was taking in history and political science were particularly engaging. That was probably the catalyst for me taking a more serious approach to academics.”



In his senior year, Judge Kindred had thought about getting an advanced degree in history and perhaps becoming a history professor, so he met with a history professor who told him point-blank, “You don’t want to be a history professor.” Judge Kindred asked why, and the professor replied, “What if you don’t like it? What if you aren’t good at it? There aren’t any other options; you can’t do something else with a doctorate in history.” He encouraged Judge Kindred to think about law school. At that point, Judge Kindred had never even met a lawyer. He knew little about lawyers outside what he saw in the entertainment media. Like most outside the profession, he had no practical sense of what it meant to be a lawyer. But he respected his professor so much that he asked, “Okay, what does that mean?” The professor said, “You need to sign up for the LSAT.”

Judge Kindred explains, “I signed up for the LSAT and, given my naivete and the fact that I didn’t know any lawyers or have any law school friends to talk to, I went into that exam cold. I thought it was interesting, but—in retrospect—I didn’t understand its importance. I ended up doing fairly well on it, which served as the momentum for me taking it seriously and applying to law schools.”

Judge Kindred applied to several law schools, but he didn’t grasp the significance of tiers, or what

it would mean to go to one law school as opposed to another. In the end, he chose Willamette Law School, he says, “in part just because it was a school I had heard of in the Northwest and it was close to Alaska.”

Judge Kindred recounts his law school experience:

So I drove down there and started law school, which was a bit of a culture shock for me, for a variety of reasons. First of all, I came from a fairly modest background. My parents worked very hard to give us opportunities that they didn't have. I sold my car and I was living in a shared, communal apartment complex and walking to school. A lot of the young people at my school had a very different background. It was also different having grown up in a city like Anchorage, which was incredibly diverse; when I was growing up, I didn't realize how diverse it actually was. The law school wasn't really very diverse, and there were a lot of other things during that first year that I found particularly eye-opening. It was also the first time I had been in an academic setting where everyone was trying so hard to do well. It was good for me to be challenged and realize that I couldn't just coast. I was really going to have to commit to my education.

Judge Kindred claims, “I loved law school. It was three of the best years of my life. I was intoxicated about the academics, this learning about the law. I did well, and got involved in Moot Court and Law Review, and just really enjoyed it—although I still hadn't interacted with many lawyers and didn't totally understand what it meant to be a lawyer professionally. I was just enjoying the learning aspect of it.”

Judge Kindred returned to Anchorage after his first year of law school, still unsure of his future. There, he ran into a high school friend who—to his surprise—was working in the district attorney's office, and who asked, “Why don't you come intern here?” So he did. Judge Kindred recalls, “I don't know how functionally beneficial that experience was, because there wasn't much I could actually work on, but it was good for me to see a group of lawyers working together on a day-to-day basis. It was my first real exposure to the criminal justice system.”

Right at the end of his second year of law school, Judge Kindred was named editor of the *Law Review*. At that point, there was a backlog of articles that hadn't been published due to some odd tax issues the *Law Review* was going through, so he spoke with the dean and volunteered to work through the summer. He stayed in Salem that summer and worked full time on *Law Review* articles.

Judge Kindred graduated law school in 2005, and the one thing he knew for certain was that he would return to Alaska. He had done fairly well academically, but he still didn't know what he wanted to do or how to make the transition to employment. He signed up to take the

Alaska Bar Exam, but he hadn't applied for any law jobs. Before leaving, he was unexpectedly approached by Associate Justice Paul De Muniz at the Oregon Supreme Court, who invited him to breakfast.

After the breakfast, Judge De Muniz asked Judge Kindred to clerk for him. He agreed to a two-year clerkship, went back to Alaska and took the bar exam, and then returned to Salem to start his new job. At that point, he was still somewhat naïve about the importance and prestige of judicial clerkships. At the time, Judge De Muniz was transitioning to chief justice. Judge Kindred recalls, “It was probably professionally—and personally—one of the most important periods of my life. I not only had access to his brilliance, but he was also unique in that his whole approach to being a lawyer was always guided by a sense of morality and decency.

Judge Kindred reflects, “So often he'd tell me tales of his career, most of which was spent as a criminal defense lawyer. The stories were always lessons—built on the foundation of how much more important it is to be a good person than it is to be a successful lawyer.” He added, “I don't know that I always understood the lesson at the time, but I realized that his path was often more arduous because every time there was a fork in the road between doing the easier or more self-beneficial thing and the thing that was right, he would always take the path that was right.”

Judge Kindred says that the two years he spent with Chief Justice De Muniz had a profound impact. He learned a great deal about the law, became a much stronger writer, and he got a better sense of what it meant to be a litigant. He muses, “It was something I sort of fell backwards into, but I don't think I would have learned nearly as much or had as much success professionally if I hadn't taken that job.”

Judge Kindred clerked for the chief justice until mid-summer 2007 and then returned to Alaska with a desire to do something in the public sector. He recalled, “My father had enlisted in the military; he didn't necessarily preach a lot about that, but I got a strong sense of public service from him. I wanted to spend a few years doing something that wasn't about the money, but about the service.” After his clerkship, however, Judge Kindred was suddenly approached by several law firms. He interviewed with a few firms, but ultimately he took a job with Lane Powell in Anchorage.

Despite the stint there being “a positive experience,” he felt that it wasn't a great fit—but not due to any deficiencies at Lane Powell. As he put it, “I just didn't have passion for what I was doing. I worked with some incredibly talented lawyers—Brewster Jamison was a managing partner, and he was an excellent attorney.” Judge Kindred claimed that he learned a lot from him and the other attorneys, but he felt a bit ambivalent about his job. He recalled, “I worked hard, but I didn't have a strong emotional attachment to the work. It was a great firm, but I realized I should be doing something else—I just didn't know what that something else was.”

It seemed that too often, after a lot of work and a guilty verdict, Judge Kindred would feel melancholy—not because he had done anything wrong or unfair, but because the person he had just been sitting across from was now going to spend the next X number of years in prison.

After about a year at Lane Powell, Judge Kindred ran into Rob Henderson from the Anchorage district attorney's office. Henderson hadn't been a part of the district attorney's office during his earlier internship, so they hadn't met. During coffee, Henderson told Judge Kindred that he was supervising the district attorney's Misdemeanor Unit and offered him a spot in the office.

Working in a courtroom and with a group of attorneys appealed to Judge Kindred, so around July 2008, he made the transition. It turned out to be a good move, satisfying his need to do public service and providing the joy of being in the courtroom. Although he found criminal law refreshing, he also experienced the inherent pressure—both professionally and otherwise—of doing that job every day.

Judge Kindred noted that during his career, he would hear attorneys talk about pressure but never felt it like he did at the district attorney's office. He compares

the experience to his work later in life, concluding that “working for [the oil] industry involved talking with scientists and engineers and drafting comments, and there was stress about getting the comments in by a deadline. I'd ask, ‘When are comments due?’ They'd tell me, ‘In 6 weeks.’ I'd say, ‘Well, come and talk to me in 5 weeks.’ It felt like they had all the time in the world.”

Although Judge Kindred truly enjoyed being a trial lawyer, he felt he didn't subscribe to the prosecutorial ideology as much as some of his colleagues, and he found the gravity of his job quite sobering. One night he was on call, and a patrol officer called with a question. It was about a domestic disturbance; the officer wasn't sure if he should arrest the man or just make sure he found a different place to stay for the night. Judge Kindred told him it was probably better to take the man into custody but recalled that he was thinking about the case law purely academically. When he got to the office the next day, the file was on his desk. The patrol officer had written, “Contacted ADA Kindred, and based on his recommendation I arrested him.”

“I realized,” says Judge Kindred, “that based on my recommendation, some guy had spent the night in jail. That was really jarring to me. I carried that feeling with me through much of my career, especially after I began prosecuting major felonies. I enjoyed my time in the drug unit—in that I liked the work and the people I worked with—but I think for a lot of prosecutors, the job takes a toll personally and time-wise—and a guilty verdict is what sets them right; it's like the emotional payback. I never had that.”

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not because he had done anything wrong or unfair, but because the person he had just been sitting across from was now going to spend the next X number of years in prison. He found it hard to feel celebratory about such an outcome. As far as the trials themselves, however, Judge Kindred never felt as at home as he did in the courtroom; being a trial lawyer really seemed to fit well with his strengths. It was a time of growth professionally, despite his struggle with the broader philosophical question of prosecution. He flourished as an attorney, particularly regarding his overall perspective and confidence in his abilities.

After spending six months in the district attorney's office doing misdemeanors, Judge Kindred was promoted to the Felony Drug Unit. He worked there for about a year and then moved to Violent Crimes. He was a line attorney for about a year and a half before being named as the violent crimes supervisor.

Judge Kindred jumped into the deep end quickly. His third felony trial involved a homicide, which he feels was a blessing because it was so challenging right out of the gate. “Sometimes, though,” he mused, “I think I could have benefited from a less-rapid ascension through the ranks.” He remained in Violent Crimes for a while; there were many trials and plenty of work, and he found it rewarding. He felt that he had a seat at the table for discourse with law enforcement about policy, and even up the chain of command in the Criminal Division. He found “thinking about criminal law and criminal prosecution conceptually extremely gratifying.”

One aspect of the job that Judge Kindred found slightly tricky was supervision, as many of the people he supervised at the district attorney's office had been there longer than him and were far more experienced. He focused on finding ways to make the men and women in the division feel more valued, and to address their stress and workload. At the time, he still carried a fairly heavy docket of cases, but nearly a third of his job was administrative, and he came to enjoy it.

Around 2012-2013, Judge Kindred had been out on two bad homicide calls in one week, and he felt “blank, empty. Not a bad mood, just sort of numb.” He told his wife, Talitha (Tali), “I don't think I can be the kind of husband and father I want to be if so much of my emotional well is drained every day at work.” They talked, and he decided that it was time to get out. Although he loved the job and the people he worked with, he realized that if he allowed himself to be wholly consumed by his job, any transition to something different would be too difficult. As he put it, “I had to decide, from a professional development standpoint, whether I was going to get out or make this my career. I came to the conclusion that I should try something new. And that decision sounds more simplistic than it was.”

As he began to look around, a friend recommended that he apply for a legal position with the Alaska Oil and Gas Association (AOGA). It was unusual because, despite growing up in Alaska, Judge Kindred knew almost

nothing about the oil and gas industry there—practically or legally. After the stress of the district attorney’s office, it sounded like a job that would be unlikely to require serious emotional investment, so he interviewed. He felt that the position might allow him to take the kids to school and pick them up, and ease some of the personal demands that he’d experienced at the DA’s Office. He took the job and it turned out to be exactly that—it allowed him freedom to put energy and focus on his family as opposed to working late and on weekends. “I rarely thought about work when I was at home; it was a nice reprieve.”

AOGA is a trade association that represents the oil industry in Alaska, and its members include most of the oil companies operating in the state. As counsel for AOGA, Judge Kindred found himself enjoying the opportunity to delve into the Endangered Species Act, the Marine Mammal Protection Act, and the National Environmental Protection Act, and to satisfy his desire to learn. “It was almost like being in a law school course,” he said. The oil companies would bring their issues to AOGA, and if they were legal or regulatory, they would fall on his plate.

The AOGA job involved meeting with scientists and engineers from the oil companies, going through regulatory packages, and discussing what was problematic or functionally impossible. Judge Kindred said, “Some of the packages would have a specific environmental objective. I’d look at it through a legal prism and write comments to the regulatory agency in charge. It seemed that the agencies and those being regulated were having two very different conversations; it was not about having intelligent discourse to produce a better regulatory product. I felt it would be better if there was more trust on both sides, but that could have been a byproduct of my naivete.”

Because Judge Kindred had been a trial lawyer and was comfortable with public speaking, he was also tasked with attending symposiums and speaking on a variety of issues. He traveled to Washington, D.C., a few times and testified in front of various Senate committees. “I learned a lot,” he says, “but I don’t think it was a job that meshed with my personal ideologies.” He stayed with AOGA for almost five years—from late 2013 through June 2018.

Judge Kindred found the AOGA job somewhat unsettling because, unlike the district attorney’s office, it had no organizational hierarchy in which he could move up. He was occasionally approached by law firms or oil corporations about a possible move but never felt that another law firm job would be a good fit. Despite an occasional brief panic attack about the future, however, he said, “Fortune chose to smile on me once again.” A colleague reached out and told him about a posting for a regional solicitor at the Department of the Interior (DOI). Judge Kindred applied and was hired after going through “a rather cumbersome multi-level federal process.” He was interviewed by the solicitor, Daniel Jorjani,

and the then-deputy secretary of the interior (now secretary), David Bernhardt, who made the decision to bring him on. Judge Kindred started there in June 2018 and says that it turned out to be the best job he ever had.

There are eight regional solicitors in the country for DOI, and Alaska is the only state that is a region in and of itself. It was somewhat of a dual position because he worked not only with the DOI solicitors in Alaska but also with many of the solicitors for D.C. and the various department heads in D.C. Judge Kindred recalls that it was the best group of lawyers that he’d ever worked with.

His biggest reservation about taking the job was that he didn’t know enough about “the regulatory rubric.” Fortunately, everyone at DOI was talented and knowledgeable, and he “really got to dig deep into the law. It was like being a mini attorney general, where you’re working for the department at a top-of-career position.”

At DOI, Judge Kindred was involved in a great deal of federal litigation—primarily through drafting briefs. He felt himself “essentially on the periphery of all the litigation,” just prepping the Department of Justice (DOJ) attorney and dealing with the briefs. One aspect he particularly enjoyed was being able to provide ideas about options, express his opinions on the law, and be the person who was there to tell them not what they wanted to hear—but what they *needed* to hear. “Having those battles on a weekly basis, trying to get someone to pivot, I really enjoyed that. I learned something new every day.” Judge Kindred found himself thinking for the first time, “This is what I want to do for the rest of my career. I liked what I was doing, and enjoyed the fact that every 4 years, everything would change. It would never stagnate.” Loving that job so much, however, made his nomination to the bench a bit difficult because he really didn’t want to leave DOI. He had never considered a judicial career.

When Senior Judge Beistline’s seat came open, Judge Kindred didn’t think about applying until people began reaching out and encouraging him to do so. “It’s a very humbling process,” he said, and although he knew he was a good attorney and was flattered, he didn’t feel that he “was deserving of such an opportunity.” On the last day the posting was open, Tali told him she thought he should go ahead and give it a shot. So at the last minute, he decided to throw his name in the hat. He didn’t really think he had a chance, primarily because he wasn’t really well known in Alaska.

“It was humbling, but I realized I was one of the youngest people in the applicant pool, and I made peace

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with it. I felt that they had a lot of good candidates, and that I definitely wouldn't be the one chosen. So I just let it go and forgot about it."

Jonathan Katchen was initially selected as the candidate, but eventually he withdrew his name for consideration. By that point, Judge Kindred had put the matter in the back of his mind. He was in D.C. for work when staff members from Senator Dan Sullivan's office contacted him to assess his interest. "I'd be honored if you called my name," he responded.

In May 2019, he and Senator Sullivan had a conversation about judicial philosophy. He wasn't sure how things stood after that conversation, and he wasn't sure if he'd hear anything else. "The next thing I knew, they wanted to do an interview. They asked questions about judicial philosophy and my thoughts on statutory interpretation,"

he said. He still felt left in the dark, not knowing if that was the end of it. In July 2019, DOJ reached out and said, "This is happening."

That process played out over many months. Judge Kindred said that he and essentially every lawyer he'd ever dealt with were interviewed a number of times. The process culminated with his nomination. "I braced for a media onslaught," he said, "but it never really came. I was fortunate enough that there were attorneys in Alaska who think highly of me and who vouched for me, for that large segment of the Bar who saw me as an unknown. I kept waiting

for the moment when it became this naked political thing, but that never really happened. It was both surprising and reassuring that no one ever asked anything that was purely political."

During the confirmation hearing, however, Judge Kindred was surprised at the level of animus that suddenly surfaced. "Once again, I chalk this up to my naivete about how this works in the political arena." If you grow up in Alaska or work in Alaska for any period of time, you know that working for the oil and gas industry isn't an ideological statement.

But Judge Kindred was caught off guard by how often the narrative turned to the idea that "he doesn't care about the environment." He found it to be the most unsettling part of the process. "I think of myself as an Alaskan who cares a great deal about the environment," he said. "I had to come to peace with the fact that if you didn't grow up in a resource state, it probably does feel like a statement of belief." It was an arduous process for a lawyer who was never deeply engaged in politics. During it all, however, he was bolstered by the tremendous support of his family.

Judge Kindred knew he had a formidable responsibility ahead. He says, "I had been in [Judge] Sharon Gleason's courtroom and watched her in oral argument,

and she's just this huge mental presence. I remember wondering for the first time if I was up to the task. That feeling was immediately washed away by the kindness and support of the senior and active judges and how quickly they took me under their wing." Judge Kindred continues, "You spend your whole career after law school thinking of the law as a malleable tool that can be a sword or a shield for your client, and then all of a sudden you're in a job where none of that matters. All legal jobs are inherently cerebral, but being a judge is detached in a way that is jarring when you first start. And getting sworn in 15 minutes before a global pandemic probably wasn't ideal."

The result, however, has been incredible, Judge Kindred says, due in large part to the clerks, the staff, and his colleagues whose doors—or Zoom calls—are always open. "As a judge," he says, "you're always on an island to a certain extent, but being able to call Ralph or Sharon or Tim [Burgess] and get their counsel has helped me approach this transition in a calm and healthy way.

Judge Kindred adds, "One of my strengths throughout my career is that I've always been very objective and—probably starting with my parents and when I was clerking for the chief justice as well—I always saw things in terms of right and wrong. Now, being able to sit here, I feel those traits will serve me well in this capacity, despite how steep the learning curve is. I believe that having that as a foundation helps make me well-suited for this position."

Judge Kindred started on the first Monday of March 2020, and by the end of the following week he had been assigned nearly 100 cases. Now, on the bench during a hearing, he feels much more at ease. He says that what he enjoys the most is that every new case is a reason to learn. While he feels at home on the criminal side, he's noticed that the biggest difference federally is in sentencing, and he quickly realized that he had to come to grips with the different guidelines.

On the civil side, Judge Kindred finds it very interesting to navigate employment cases. "I'd also love to have some civil environmental cases," he said, "because I'm comfortable with that, although I'm going to be conflicted out of those types of cases for quite some time. It may sound cliché, but the fact that I can take the time to really invest in research and to understand the nuances and the context of a case is really great." He notes that, based on his positive experience with the Oregon chief justice, he feels a special kinship to the clerks and is compelled to be a similar mentor for the clerks in his chambers.

"When I look at my life, I've always been sort of lucky," Judge Kindred recalls. "I was fortunate to have the parents I had, the friends growing up, both in high school and in college. I feel fortunate to have gone to Willamette and learned from the faculty there, and I couldn't have been more fortunate than to have fallen into my clerkship with the chief. All along the way, I've found colleagues who made my life better, who made me a better lawyer."

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In retrospect, he says, “My life has basically been good fortune followed by good fortune, followed by good fortune—all due in large part to the people in my life. I often question what I did to deserve all this—and no one represents that actuality more than my wife does. We got married in October 2013, and she is an incredible lawyer. She’s always been there by my side and has made me a better person and a better lawyer.”

Judge Kindred doesn’t know if he ever appreciated when he was young what it would mean to have someone in your life who’s not only your cheerleader, but who will also let you know when you get something wrong. He says, “Having access to someone like that on a daily basis—having that foundation, that anchor—it’s made everything about my life and my career better.”

Judge Kindred says, “We have two wonderful kids. I have to admit that it’s been tough—for anyone who has kids—during the global pandemic to navigate personal and professional aspects of life.” He feels lucky that he’s been able to spend more time with the kids and like everyone, is trying to figure

out when it will end, but claims that it’s nice to be able to come home to such a great family and to be there for. Judge Kindred says that his daughter would want him to mention the new presence in their household—a Bernedoodle puppy. He notes, “We aren’t getting a lot of sleep at the moment, but honestly, it just adds to my feeling of good fortune.”

Growing up in Alaska, Judge Kindred did a lot of backpacking, rock climbing, and bike riding. Soccer was his sport in high school and college. He still does some hiking, and his wife loves the outdoors. In the past few years he’s taken up golf and is admittedly “pretty bad at it” but enjoys it thoroughly. Both he and his wife have extended families living in Alaska, and they spend a lot of time camping together. “It feels very 70s sitcom-ish,” he says, “but that’s my life.”

As far as the progress of his career, he concludes, “I’ve been rich in finding those people who are very good at the core, as well as being exceptional lawyers. And with the colleagues I have now, my good fortune just goes on and on.” ☺

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