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The Roy Moore I Know: Reflections on My Former Boss

■ Christianity ■ Culture ■ Politics by

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Commentators on both the left and right portray Roy Moore as a reactionary fanatic, a homophobic theocrat, or a backwards hick who somehow managed to earn a law degree. But the Roy Moore of media depiction is not the Roy Moore I know...

I first met Roy Moore in 2012. He had just been elected Chief Justice of the Alabama Supreme Court, a seat he held nearly a decade earlier. He was interviewing me for the position of Staff Attorney in his new administration. I'd interviewed months earlier with members of his campaign. Now here I was, in the Old Central Bank building in downtown Montgomery, looking over Court Square Fountain where 200 years ago there might have been slave auctions taking place below. It's the historic part of town with cobblestone streets and commemorative markers at the bottom of a long hill leading up to the Alabama State Capitol. I could see why he chose this spot for the Foundation for Moral Law, where he was wrapping up his tenure as president and awaiting his investiture.



I sat in a comfortable Victorian chair in a stately office with interior brick walls. Decorated with Bible verses, paintings, books, and statues, the room looked like a museum for the American Founding. The Chief, as I was instructed to call him, sat behind his desk, relaxed and informal. He wore a gray dinner jacket with a bright red tie.

I had expected an intense interrogation and prepared myself to be tested on theological matters, legal principles, and American history. But we didn't discuss those things. We talked about speeding tickets, my family in Alabama, and an essay I had written about Russell Kirk. He asked if I were a Christian and seemed satisfied with my affirmative response.

That was it. I was hired and began working for him two months later. The man I feared had been casual and easygoing. I knew he would be a good boss. I worked for him for more than three years, until 2016, and learned more about the law in that period than I did in private practice. He trained his staff to trace all legal doctrines back to discernible origins and to consult Sir William Blackstone's *Commentaries* whenever possible. He opened every meeting with prayer; everyone who worked for him began each morning with Bible study or devotionals.

When he'd call you into his office to discuss a case, he'd have a toothpick in his mouth, using his tongue to flip it up and down and side to side as he spoke. I always worried he'd swallow it and choke.

He'd take his staff out for lunch and never forgot a birthday. Sometimes while driving to the restaurant, he'd hold the steering wheel and a firearm with the same hand. He rarely paid attention to speed limits, moving too fast or too slow and drifting from lane to lane as he concentrated more on conversation than the road.

I recall asking him on several occasions to explain his arguments in pending cases. If he responded by reciting speeches by George Washington, Bible verses, or poetry, I knew I was overanalyzing a narrow point from which he wanted me to extrapolate some greater principle. He would scrutinize facts and the controlling law in every case to ensure they squared with what he considered to be biblical and moral truths. He could be stubborn and would argue his points vehemently, but if you proved him wrong, he relented and thanked you for the debate.

He raises cattle and rides horses and likes to work with his hands. During one lunch, his wife, Kayla, held up her iPhone to show us a video in which Chief, shirtless and wielding a chainsaw, leaned over the edge of a cliff to clear trees and brush.

He purchased a mobile home during law school that he later moved to a plot of land he bought from a deputy sheriff. Over the years, he expanded and renovated the mobile home by himself because he couldn't afford an architect or builder. Using picks, wheelbarrows, sledgehammers, and shovels, he labored in his spare time, clearing land, laying a foundation, digging a sewer line, and piling concrete rocks until a house began to take shape. He was in no rush. As he earned money practicing law, he'd buy materials and, bit by bit, undertake new projects. Today there sits a handsome house of brick and rock with a swimming pool and natural-stone decking in a

backyard surrounded by acres of farmland. You wouldn't know from looking at it that the hallway in the middle of the home was once a trailer.

In December 2017, Judge Moore lost the race for the open U.S. Senate seat in Alabama to Doug Jones, who became the first Democratic Senator from Alabama in twenty-five years. Judge Moore's campaign was mired by allegations of sexual misconduct with multiple women. One woman, Wendy Miller, claimed Judge Moore had sexually assaulted her when she was only fourteen.

I do not know, and have never met, any of these women. I do not know whether their claims bear any truth. I was not even alive when the alleged incidents of misconduct occurred. I have, however, prayed with Judge Moore, read my Bible with him, and discussed my faith with him. I know he understands the importance of repentance and the gravity of unrepentance. I find it improbable that he would continue denying the accusations against him if they were true. Yet I understand why others who do not know him as I do would remain cautiously skeptical.

Judge Moore first rose to national prominence in the early 1990s, when, as a circuit-court judge, he installed on the wall of his courtroom a plaque of the Ten Commandments carved himself from redwood tablets. The plaque, he later wrote, "would be perfect behind my chair to reflect my belief in the Supreme Lawgiver of the universe."

Predictably, the ACLU sued him in federal court. Jeff Sessions, then the Alabama attorney general, filed a declaratory-judgment action in state court on behalf of the governor, Fob James, who supported and agreed with Judge Moore. Governor James wanted Attorney General Sessions to push back against legal actions initiated by out-of-state interests and agitators.

The federal lawsuit was dismissed on a technicality. The ACLU tried but failed to remove the Governor's lawsuit from state to federal court. Meanwhile, Judge Moore crossclaimed the ACLU, going on the offensive. Bill Pryor, who succeeded Jeff Sessions as Attorney General, later becoming a federal judge on the Eleventh Circuit Court of Appeals, was then an Assistant Attorney General in Mr. Sessions' office. He argued the State's position supporting Judge Moore.

At first the judge ruled Judge Moore's "prayers" unconstitutional under the state and federal constitution. But prayer wasn't the issue. The lawsuit was about the display of a plaque. The ACLU, therefore, moved the judge to reconsider his ruling to require Judge Moore to remove the plaque. The judge did just that, ordering the plaque to be removed unless it were surrounded by secular historical displays. Governor James announced he would call in the National Guard to prevent such removal. Before tensions escalated further, the Alabama Supreme Court, which had stayed the trial judge's order, dismissed the case on procedural grounds.

Judge Moore had won. More than once. Media across the country reported on his victories. He began appearing on radio and television and speaking widely about the First Amendment and the importance of honoring God in public life. Pundits assigned him the moniker "The Ten Commandments Judge." This sudden rise to stardom empowered him successfully to run for Chief Justice of the Alabama Supreme Court.

Before he was sworn in, he'd already begun plans to install a massive monument of the Ten Commandments in the Alabama Supreme Court. That 2.5-ton edifice arrived on July 31, 2001, and was situated, in the middle of the night, in the rotunda of the courthouse and covered in a red veil. It wasn't long before Judge Moore was sued again, this time by plaintiffs represented by the Southern Poverty Law Center, the American Civil Liberties Union of Alabama, and Americans United for the Separation of Church and State.

Judge Moore contended that the monument did not violate the Establishment Clause of the First Amendment because it did not amount to a state endorsement of religion. Myron Thompson, the federal district court judge for the Middle District of Alabama, held otherwise, ruling, among other things, that the monument did not have a secular purpose. Judge Thompson ordered Judge Moore to remove the monument within thirty days.

Judge Moore appealed to the United States Court of Appeals for the Eleventh Circuit, which affirmed Judge Thompson's ruling. The monument had been left undisturbed in the rotunda pending the outcome of the appeal; now Judge Thompson fixed a deadline for removal with a penalty of \$5,000 for each day the monument remained.

The standoff proved too much for Alabama's legal community. The Judicial Inquiry Commission promptly suspended Judge Moore, filing with the Judicial Inquiry Commission a complaint in the Alabama Court of the Judiciary that accused Judge Moore of disobeying a federal court order. Meanwhile, Judge Moore attempted to appeal the Eleventh Circuit holding to the U.S. Supreme Court, which declined to hear the case. Judge Pryor, who once sided with Judge Moore, undertook Judge Moore's prosecution before the Alabama Court of the Judiciary, which removed Judge Moore from office on November 13, 2003.

Although he'd lost his job and a lawsuit, Judge Moore established himself as a man who was willing to take the fall for what he believed in. "When Judge Thompson ordered me to remove the Ten Commandments monument," he later wrote, "he not only issued an unlawful order; he also ordered me to do something that violated my conscience and my oath to the Constitution of the United States and the constitution of the state of Alabama."

Commentators on both the left and right portray Judge Moore as a reactionary fanatic, a homophobic theocrat, or a backwards hick who somehow managed to earn a law degree. Add to these the latest tags of pedophile and sex offender.

Actually, he's a regular guy in most respects, despite having graduated from West Point, served in Vietnam, worked as a cattle rancher in the Australian Outback, recorded country-music songs, married a beauty queen, and fought as a professional kickboxer.

He's a practical joker. A staff attorney once walked into a storage closet to look for supplies. Chief held his index finger to his lips,

signaling for us to hush as he tip-toed to the closet door and locked it. We stood there suppressing laughter as the soft jiggle of the door handle turned into frantic pounding on the door.

I toiled over one case and was pleased with the results of my work when I gave it to Chief for his review. Hours later he called me into his office, pretending to be angry as he held my memorandum and began reading sentences aloud. "What is *this*?" he yelled. "Go back and do it over again." I stood to leave. As I reached the door, he said, "Hold on." I turned around. He was laughing. "This was excellent," he said. "Don't change a thing."

For his birthday one year, as was custom, our office bought him a present. He tore through an envelope and removed a Barack Obama birthday card that sang "Happy Birthday" in Former President Obama's voice. I can't recall what Chief did with the card, but he wasn't amused.

Chief complimented my watch one afternoon. I told him it was a gift from my grandmother. It wasn't worth anything, I said; its value was purely sentimental. He asked how I knew how much the watch was worth. I explained that I found out online. "Can you find out how much mine is worth?" he asked, holding out his wrist to show me the make and model of his watch. I retrieved my iPhone, quickly researching the answer. "About five to ten dollars," I said. Chief's expression was a blend of surprise and embarrassment. "Well," he said, "it's a good watch."

He would leave food in the fridge for weeks. He once took a chance with pasta that had been in there for months. Advised against this decision, he simply said, "If I die, I die."

I never knew how serious he was about "Indian mud," or "Black Salve." He swore by that mysterious substance and even ingested it in pill form to, he claimed, prevent cancer and other unspecified ailments.

Chief hired the first black marshal of the Alabama Supreme Court. He'd allow preachers in the building to conduct Bible studies every Tuesday.

He dissented in nearly every case involving the termination of parental rights, believing the State lacked the authority to prohibit mothers and fathers from making decisions about their children's lives. "God, not the state," he wrote in one dissent, "ordained the institution of the family." Therefore, he reasoned, government could not take your children from you and then deprive you of your duty to raise or even see them, especially when you have never physically harmed them. Drug problems did not justify stripping a parent's rights to the child he or she loved and otherwise adequately cared for.

On January 23, 2015, Judge Callie Granade of the U.S. District Court for the Southern District of Alabama declared Alabama's marriage laws to be unconstitutional. Her decision could not have applied to Alabama probate judges because they were not defendants in the case. Therefore, on February 3, 2015, the Chief sent a letter and an accompanying memorandum to Alabama's probate judges to explain why Judge Granade's order did not govern them. Her order, he pointed out, had not instructed probate judges to do *anything*.

Rule 65(d)(2) of the Federal Rules of Civil Procedure states that every order granting an injunction binds only the parties; the parties' officers, agents, servants, employees, and attorneys; and other persons who are in active concert with those individuals. In light of this rule, the Chief issued an administrative order on February 8, 2015, in his capacity as the administrative officer of the Alabama court system, declaring that Alabama probate judges were not subject to Judge Granade's order. A motion was later filed in Judge Granade's court to hold one probate judge in contempt for not issuing a same-sex marriage license. Judge Granade responded by echoing the Chief's position in his order of February 8, stating that the probate judge was not a party to the case and had never been ordered by her to do anything. She and Judge Moore apparently agreed.

Meanwhile, in a case filed by the conservative Alabama Policy Institute (API), the Alabama Supreme Court upheld Alabama's marriage laws and extended its order to all probate judges in the state except the one before Judge Granade in the contempt proceeding. Two days later, however, the Alabama Supreme Court revised its order to include that judge as well.

Judge Moore did not participate in that decision; nor did he recuse himself from the case.

The Alabama Supreme Court also correctly held that opinions of a federal district court and a federal appellate court on matters of federal law did not bind the Alabama Supreme Court. State and federal courts, the opinion explained, are equals when they interpret federal law; therefore, Alabama probate judges had a ministerial duty to continue to issue marriage licenses in accord with Alabama law, not with the opinion of a federal district judge.

On June 26, 2015, the U.S. Supreme Court released *Obergefell v. Hodges*, which, by a five-four vote, held unconstitutional the marriage laws of Kentucky, Michigan, Ohio, and Tennessee and proclaimed that same-sex couples possessed the right to marry. As a result, the Alabama Supreme Court invited the parties in the API case to submit motions or briefs addressing the effect of *Obergefell* on the orders in the API case. The deadline for those submissions was July 6, 2015.

Two months passed. On September 2, 2015, Judge Moore sent a memorandum to his colleagues on the Court, imploring them to reach a decision. "[A]ny decision," he wrote, "is better than no decision at all." On October 7, 2015, after the Court was criticized in the media for not acting, Judge Moore sent his colleagues another memorandum urging them to rule. Three more months went by. On January 6, 2016, six months after the July 6, 2015, deadline the Court had imposed on the parties, Judge Moore issued an administrative order updating Alabama probate judges on the status of the pending API case. The timing was not coincidental: Canon 3A(5) of the Alabama Canons of Judicial Ethics requires all judges to file a report on cases that have been pending for six months or more.

Judge Moore's January 6 order stated that he was "not at liberty to provide any guidance to Alabama probate judges on the effect of *Obergefell* on the existing orders of the Alabama Supreme Court" because that issue was before the Alabama Supreme Court in the API case. It also stated that the Alabama Supreme Court's order to the probate judges remained in full force and effect despite *Obergefell* because, as the United States Supreme Court has held, existing orders must be obeyed by the parties until proper and orderly proceedings have reversed them.

On February 18, 2016, several Alabama citizens filed ethics complaints with the Alabama Judicial Inquiry Commission against all the Alabama Supreme Court justices, alleging that the Court had failed to rule expeditiously in the API case. These complaints forced the justices to move. On March 4, 2016, they released a one-sentence order: "It is ordered that all pending motions and petitions are dismissed." The Court then issued its certificate of judgment, formally bringing the API case to a close.

Although Judge Granade had written that the Alabama Supreme Court's ruling in the API case remained operative during the months preceding the March 4 judgment—effectively validating Judge Moore's position—the Alabama Judicial Inquiry Commission suspended Judge Moore from office in May 2016. In September 2016, the Alabama Court of the Judiciary found Judge Moore guilty of the charges brought by the Judicial Inquiry Commission and suspended him, without pay, for the remainder of his term. Judge Moore had once again been ousted for standing up for what he believed in.

What will Judge Moore do now that he's lost the hyped Senate race? He never effectively refuted the allegations of sexual misconduct that tarnished his credibility and character. He's now almost seventy-one years old and, thus, statutorily ineligible to run for judgeships. The Alabama gubernatorial race already has a crowded field of candidates, and Judge Moore has failed twice in previous gubernatorial races. Senator Jones's term runs through January 2021, but it's unimaginable Judge Moore could build support to mount a rematch.

It appears that politics isn't in Judge Moore's future. That's a good thing. It's time for him to repair his reputation, living out his remaining years on his beautiful farm, riding and raising horses, collecting his papers and opinions, working studiously and prayerfully on his memoirs, and serving God in areas less contaminated than politics. He receives an annual pension of \$135,845 as a retired judge, which is plenty to live on while he devotes himself to study and contemplation.

The Roy Moore of media depiction is not the Roy Moore I know. The Roy Moore I know is humble and reflective, a man who searches history for wisdom and guidance. By submitting his reputation to the corrupt mechanisms of a deceitful political system, with the media distortion that entails, he has risked his good name and allowed others to define who he is. To regain his standing, he must now thoroughly and honestly address each allegation of misconduct against him, assuring not only his supporters but future researchers and writers that his conduct and character are above reproach. If his past includes moral failings, he should own up to them and repent, publicly if possible, lest he jeopardizes the ideas and principles he has advanced for decades.

Judge Moore's ability to effectuate change through politics has been neutralized. The time for quiet examination and earnest teaching has come. Let future generations pass judgment on his actions; he must finish strong and well.

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