

FOREWORD

Jennifer Walker Elrod

I am honored to write this year's foreword to the *Texas Tech Law Review's* annual Fifth Circuit Survey. We are grateful to the *Texas Tech Law Review* for its continued publication of this Survey. It is a helpful and important publication that promotes understanding and awareness of the case law produced by our court.

As my colleagues on the court have remarked in past editions of this foreword, our court has successfully weathered a number of hurricanes over the years, both literally by minimizing disruption due to the storms' destructive forces and figuratively by working through the resulting litigation with the level of care and timeliness each litigant deserves. Although I am pleased to report that no major hurricanes affected our court operations this past year, and that the cases from prior storms are continuing to dry up, our court faced a challenge of another sort—budget cuts.

As a result of the sequester provisions of the Budget Control Act, a five percent across-the-board budget cut eliminated close to \$350 million in federal judiciary funding. This cut, which came after years of self-imposed cost-containment efforts, affected a number of our court's operations and resulted in fewer public defenders, court clerks, and security guards at our courthouses. Indeed, Chief Justice John Roberts recently remarked that the budget of the federal judiciary “remains the single most important issue facing the courts.”¹

We were privileged to navigate this challenge with the leadership of our new Chief Judge, Carl E. Stewart of Shreveport, Louisiana. Chief Judge Stewart has over nineteen years of service as a Fifth Circuit judge. He also brings with him experience as an Assistant United States Attorney and as a Louisiana state judge at both the district court and the court of appeals level. Beginning his tenure as Chief Judge in October 2012, he has worked impressively and tirelessly with his colleagues on the court and the chief judges of the district courts to maintain continuity in operations despite budgetary constraints and a sixteen-day federal government shutdown. Doing so required thorny budgetary compromises, emergency funding measures, and sensitive staffing decisions. Amidst these challenges, Chief Judge Stewart has shown genuine concern and the utmost respect for court staff and his fellow judges. We appreciate his dedicated service.

Assisting Chief Judge Stewart in his administrative duties is our new Circuit Executive, Paul Benjamin Anderson, Jr. Mr. Anderson replaced

1. JOHN G. ROBERTS, JR., 2013 YEAR-END REPORT ON THE FEDERAL JUDICIARY 1 (Dec. 31, 2013).

Gregory A. Nussel, who served diligently as Circuit Executive for the past seventeen years. Among other things, Mr. Anderson is responsible for coordinating the court's budget, managing its space and facilities, and supervising our top-notch technology program. He comes to his new position after more than eleven years of experience as the Deputy Circuit Executive for the Fifth Circuit.

Our court continues to be an active and productive one. In the 2013 court year, 7,458 appeals were filed in the Fifth Circuit. The average number of opinions produced per active judge increased by ten cases to 154, and as a whole, the court produced 3,012 opinions. Notably, the court saw a reversal of the increasing trend in criminal appeals, which constitute almost a third of our docket. In 2011, criminal appeals increased 6%, followed by another 8% increase in 2012. This past year, however, criminal appeals dropped significantly, almost 14%. Federal question and diversity appeals, by contrast, increased 45% and 9%, respectively.

We currently handle this workload with three vacancies. Judge Carolyn Dineen King took senior status at the end of 2013, joining Judges Emilio M. Garza and Fortunato P. Benavides, who also recently took senior status and whose seats are vacant. We admire and appreciate the service, experience, and friendship of these fine jurists and the other senior judges. Without them, we would be unable to manage the court's large caseload, and we would dearly miss their wit and wisdom. At the same time, we look forward to new judges who may join our ranks (Judge Gregg Costa, a federal district court judge, was nominated by the President on December 19, 2013).

It is an honor and a privilege to work with such wonderful colleagues who are dedicated to public service and the rule of law and from whom I learn so much. Congratulations to the *Texas Tech Law Review* on this year's issue of the Fifth Circuit Survey.

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United States Circuit Judge
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