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Bad Frog Beer to 'intelligent design'

The controversial ex-Pa. liquor board chief is now U.S. judge in the closely watched trial.

By Amy Worden
Inquirer Harrisburg Bureau

Until he was assigned *Kitzmiller v. Dover Area School District*, U.S. District Judge John E. Jones 3d was probably best known, if at all, for some controversial decisions while presiding over Pennsylvania's state-run liquor system.

As chairman of the Liquor Control Board for seven years, Jones spearheaded then-Gov. Tom Ridge's failed campaign to privatize the state stores and banned the sale of Bad Frog Beer because he thought that the label broke the boundaries of good taste. The offending label featured a frog flipping the bird.

Today, Jones is presiding over the most closely watched trial in America.

Kitzmiller v. Dover has resurrected the debate over evolution and pitted the scientific community against evangelical Christians in a modern-day Scopes monkey trial.

Eleven parents sued after the district adopted a policy that requires ninth-grade biology teachers to read a statement that says intelligent design should be considered as an alternative to Darwin's theory of evolution. The suit contends that the teaching of intelligent design violates the constitutional separation of church and state.

"I can't imagine a better judge presiding over such an emotionally charged issue," said Ridge, whom Jones considers a mentor. "He has an inquisitive mind, a penetrating intellect and an incredible sense of humor."

In the trial's first three weeks, the plaintiffs have put a parade of academics - theologians, philosophers and scientists - on the stand to show that intelligent design is really Bible-based creationism in disguise.

Jones, 50, has run the court with a firm but light touch, sometimes handling a barrage of objections from defense lawyers while carrying on lively instant-message exchanges with his courtroom clerk.

At one point last week, during the defense's cross-examination of a witness, the lawyer's microphone started to buzz loudly.

"It's a trick we do to limit cross-examination," quipped Jones.

During an interview in his court chambers, Jones, a Lutheran, described the experience as "intriguing and a little surreal."

He said the full impact of the case's popularity hit him when he was in an Orlando airport while visiting

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his daughter and he noticed a woman reading a story on the trial in USA Today.

Seeing the headline "brought it home," he said, "that the trial was the one I am sitting in as finder of fact and judge.

"I became a judge with the hope of having an opportunity to rule in matters of great importance. To that extent this is something I looked forward to."

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Born in Pottsville, Pa., the descendant of Welsh coal miners, Jones, who had a prep school and private college education, considers himself a son of Pennsylvania's coal country.

Jones' grandfather, with only an eighth-grade education, took a gamble and built a public golf course on a farm in Schuylkill County, hoping that golf enthusiasts who couldn't afford country club membership would support a pay-as-you-go course.

The judge owns an interest in the business, Distinct Golf, which is now run by his siblings and operates five courses in Pennsylvania and New Jersey.

"I never wanted to do golf courses. I always wanted to be a lawyer," he said.

After graduating from Dickinson Law School, Jones worked as a prosecutor and ran his own law firm. He was co-chairman of Ridge's gubernatorial transition team in 1994 after narrowly losing a race for an open seat in the Sixth U.S. Congressional District. The following year, Ridge appointed him to the Liquor Control Board.

In 1997, Jones felt the wrath of lawmakers in both parties, as well the liquor store clerks, during what he called the "great privatization debate."

During months of heated debate - which included union calls for his resignation - Jones appealed to employees for civility while defending the governor's proposal to modernize the state's liquor industry.

"My time in Harrisburg gave me the ability to handle matters of public importance," he said. "I've been in the public eye."

Jones briefly considered a run for governor in 2001, but instead set his sights on a federal judgeship.

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Jones was appointed by President Bush and approved unanimously by the U.S. Senate in 2002 to a judgeship on the U.S. District Court for the Middle District of Pennsylvania. Since then, Jones has handled an array of business disputes and medical malpractices cases and ordered a stay of execution. He also ruled that the psychological records of a Scranton priest accused of molesting a young man be released to the victim.

His biggest case until now also was a First Amendment challenge. The student plaintiffs at Shippensburg University in 2003 argued that their rights were violated when the university stopped them from putting up anti-Osama bin Laden posters, saying they were banned under the university's speech code.

Jones barred the university from enforcing the code, saying it could curtail students' First Amendment rights.

"Regrettably, this sword has two edges," he wrote. "Those provisions could certainly be used to truncate debate and free expression by students."

David French, the lead attorney for the plaintiffs, recalls Jones as "meticulously prepared" and called his ruling "respectful of precedent."

"He is grounded to existing case law in the Third Circuit; he is not trying to break new ground," said French, who is now executive director of the Philadelphia-based Foundation for Individual Rights in Education, a civil liberties advocacy group.

Sitting in the barren visiting judge's chambers in Harrisburg (he usually hears cases in Williamsport), Jones ponders a question about the movie *Inherit the Wind*, starring Spencer Tracy as lawyer William Jennings Bryan and Gene Kelly as columnist H.L. Mencken.

He said he saw the film - based on the landmark Scopes trial that tested a Tennessee law forbidding the teaching of evolution - years ago.

Jones says he plans to watch the movie again, soon.

"It would help put things in historical context," he said. "I don't know if it would be helpful to the decision I have to make."

Then he laughs. "You know," he said, "nobody ever remembers who played the judge in that movie."

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John E. Jones 3d

Born: Pottsville, Pa.

Age: 50

Education: B.A., Dickinson College, J.D., Dickinson School of Law.

Career: Part-time Schuylkill County assistant public defender, private practice, John Jones & Associates 1986-2002; Pottsville solicitor, 1994-1996.

Co-chairman transition team for Gov.-elect Tom Ridge, 1994.

Chairman, state Liquor Control Board, 1995-2002.

Appointed to U.S. District Court by President Bush, 2002

Family: Married, with two children.

Quote: "I became a judge with the hope of having an opportunity to rule in matters of great importance."

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