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Behind Scolding of the F.D.A., a Complex and Gentle Judge



A photo provided by Judge Edward R. Korman shows his induction ceremony in 1985. In the front row, from left, Edward I. Koch, Robert H. Bork, Gov. Mario M. Cuomo and Judge Korman.

By Pam Belluck

The judge whose vehement ruling ordered the Obama administration to surrender and make the [morning-after pill](#) available to all ages without a prescription is strikingly soft-spoken, so much so that to hear him in chambers, a visitor must sometimes lean forward from the raspberry-and-chartreuse striped sofa that is a legacy from his parents' 1940s Brooklyn living room.

And for a man who berated the government for acting in "bad faith" and placing politics over science, Judge [Edward R. Korman](#)'s own politics are hard to pigeonhole. Conservatives outraged by his ruling might be surprised that he was appointed to his judgeship by President Ronald Reagan and his oath of office was administered by Robert H. Bork, the conservative who was Judge Korman's early mentor.

Defenders of the Obama administration, which lost in a case that was not only a landmark for women's reproductive health but also a rare episode of a judge telling a federal agency what to do, might be startled that Judge Korman's previous job as a United States attorney came courtesy of President Jimmy Carter, and that another champion of his judicial appointment was Senator Daniel Patrick Moynihan.

"There are people who are very confused" about where he stands politically, Judge Korman, 70, said. He likes it that way.

And that is especially true in this case, which he calls the most politically charged lawsuit he has handled in 28 years of presiding over many high-profile cases, including the Swiss Bank Holocaust reparations case and the 2003 crash of the Staten Island Ferry.

He said he understood that the emergency [contraception](#) case was controversial because "most people did not — rightly so — believe that adolescents should be engaging in activities that required these pills, and because there was this view that it operated as an abortifacient."

But his ruling noted that very few young girls would actually be using emergency contraceptives, and that scientific evidence undercuts the view that the drug can cause an [abortion](#). He wrote that age restrictions made it difficult for all women to get timely access to a drug that must be used soon after sexual intercourse to prevent [pregnancy](#).

He is a registered Democrat, primarily because in New York City, "most elections are decided in the Democratic primary and if you're not a Democrat, you're disenfranchised," he said.

In legal philosophy, "I basically share Bork's view that the Constitution should be interpreted based on the understanding of the framers of Constitution."

When his staff members question a softer-than-expected criminal sentence, saying, "Judge, we heard you were conservative," he responds with a Bush-era term: "I'm a compassionate conservative."

His compassion, notable in courtroom speeches that have moved his audience to tears, springs from two deep wells of experience that Judge Korman has rarely discussed publicly. One is his upbringing as a son of Jewish immigrants from the shtetls of Ukraine and Poland, who sacrificed their own education to give their only child opportunities.

“My father — he was always embarrassed about this — he actually ironed shirts, not with a Sunbeam-type iron, but a heavy iron,” Judge Korman recalled. “He would be paid by piecework, long hours in a laundry in Manhattan, and one of the things he did, he made me come and see him working, so that I would know how important it was to get an education to make something of my life.”

The second source of what Judge Korman calls his *rachmones*, a Yiddish term for empathy, centers on his own two children, especially his 30-year-old daughter, who is, he said, “severely [autistic](#).” Caring for his daughter, whose autism was diagnosed before much was known about it, has been consuming for the judge and his wife, Diane, and they visit her every Sunday in her group home on Staten Island.

There, a man whose life’s work involves intricate communication and analysis engages with a daughter who uses only a smattering of words. “I’ve never had a conversation with her,” he said.

A major victory has been teaching her to express “the difference between yes and no,” so she could make preferences clear. “These sound like little things,” said Judge Korman, his long, bony fingers raking through his white-gray puffs of hair. But “one of the problems that children like that who have no language have is frustration, they become self-abusive.”

Later, he sighed and said, “I don’t want to describe how difficult it was at times.”

Judge Korman said in cases involving disabled children, he frequently increased damage awards not only for the child but for the family, so that “the child should not be viewed as a burden” and family members feel “they’ve also gotten some benefit.”

Lawyers and judges who know him say Judge Korman is no pushover on the law. Brian M. Cogan, a federal judge and friend, said Judge Korman ruminates on issues, going back and forth “like those old cartoons with the angel on one shoulder and the devil on the other.”

Janet Crepps, a lawyer who represented the plaintiffs in the morning-after pill case, said Judge Korman appeared to do his own research, even on scientific details in the case. “We heard that we should always be well-prepared and expect that he would be extremely well-prepared,” she said.

Judge Korman had a Bassett hound, Scooter, who “drove my wife crazy because it’d take an hour to walk him around the block — it’s like he never sniffed that spot before,” he said. “But I enjoyed it because I’d call a case up in my head and think about how to change it.”

The judge's fondness for Basset hounds is evident in his chambers, where he has three dozen sculptures, stuffed animals and even salt shakers depicting the dogs.

The judge seems disarmingly modest, saying, "I floundered through college" and "I don't use my time as efficiently as I should."

Claiming that he had received too much credit for the \$1.25 billion Holocaust settlement case, he said he was just "a catalyst not a cattle prod."

Still, Judge Korman has repeatedly made a mark, frequently by criticizing laws he was statutorily required to uphold. "I've often written opinions that say 'this is wrong and doesn't make sense,' " he said.

Then he mentioned a poem, "The Calf-Path" by Sam Walter Foss, about how a crooked path made by a wayward calf ended up becoming an official road followed by everyone for centuries. "For men are prone to go it blind/ Along the calf-paths of the mind," the poem reads.

"The law depends on precedent, but I think judges don't stop often enough to think about whether the path should be followed," Judge Korman said, adding, "I try and straighten the calf's path."

Mosi Secret contributed reporting.