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A Regular Guy

BY JOHN ROBERTS

During his 30-year legal career Rodney Smolla has taken on *The New York Times* and successfully argued a First Amendment case in the hallowed, oak-hewn halls of the U.S. Supreme Court.

He has also won a high-profile trial involving murder for hire that eventually became the subject of a television movie in which he was portrayed by Oscar winner Timothy Hutton.

After each brush with celebrity, Smolla followed a similar path. Once the hard knock of the judge's gavel sounded and the media spotlight dimmed, he returned to the quiet confines of the law library and the college classroom.

Friends and colleagues describe Smolla as intensely competitive, a person who relishes courtroom battles. But his latest victory — in which he was named Furman's 11th president — could take him out of the courtroom permanently.

When he assumes the presidency of Furman July 1, Smolla, dean of the law school at Washington and Lee University, will no longer practice law.

Instead, the man who graduated at the top of his class at Duke University Law School will embrace his role as educator. The decision reflects his desire to find purpose and meaning through helping others.

It's a philosophy, he says, that mirrors Furman's mission and that attracted him to seek the position as the school's chief executive.

"The secret to the good life, the core value that is at the center of Furman's mission, is to help you realize, deep in your hearts, that it is not all about you," he said during his introduction to the university community in December. "The most important lesson you can learn

while you are here is that for your life to have authentic meaning, fulfillment and consequence, you must learn the importance of connection to forces larger and greater than yourself, to larger causes and to the greater community."

Richard Cullen '71, a Furman trustee who chaired the presidential search committee, says Smolla's message resonated across the campus. "We repeatedly heard people comment about his statement that 'It's not all about you,'" says Cullen, a former attorney general of Virginia. "He was able to encapsulate in just a few phrases the essence of a liberal arts education."

Cullen adds that Smolla's communication skills, honed by years in the courtroom and classroom, were crucial to his selection.

"The trustees knew that finding the right person to succeed David [Shi] was going to be a daunting task," Cullen says. "David can communicate like no one I have ever met. But in Rodney, we may have found someone who might be his equal."

June Aprille, provost and vice president for academic affairs at Washington and Lee who also worked with Smolla at the University of Richmond, describes him as "organized, energetic and open to all opinions."

"Rod leads with ideas and gathers consensus," she says. "He is a remarkable communicator. He can relate to people because he has been one of them. He's a parent, he's been a student, he's been a faculty member, and he's been a practicing professional. He also comes from a humble background. He can speak to people with a kind of credibility."

A master communicator with a remarkably agile mind and a natural ability to relate to people, Rod Smolla prepares to take the helm as Furman's 11th president.

The oldest of five children, Smolla grew up in a three-bedroom home in the western suburbs of Chicago.

His father, Richard, was a Polish Catholic Navy veteran who served as a radio operator in World War II and Korea. After leaving the service, he became an air traffic controller. Described by his son as "very humble and modest," he was a strict disciplinarian who spoke little of his war service and accomplishments.

A natural in the classroom and on the athletic field, Rodney Smolla enjoyed a Norman Rockwell-esque childhood. After arriving home from school, he would dash out to play with friends. His summers were filled with sports and games, with the children in his neighborhood migrating from yard to yard and house to house.

In a 1999 interview, Smolla's mother, Harriet, said she recognized her son's intelligence early. "We knew he had a good grasp [on things] because he was able to explain the daily news to his younger brothers and sister in a way they could understand," she told the *Daily Herald* of Arlington Heights, Ill.

Agile, fast and fiercely competitive, Smolla was always among the first selected for neighborhood pick-up games. But it was not until his freshman year in high school, when he became the basketball team's starting point guard and a halfback on the football team, that he began to realize his potential as an athlete.

A slashing runner who sought to model himself after Chicago Bears running back Gale Sayers, Smolla could run the 40-yard dash in 4.6 seconds. In four years at Lake Park High School, he returned eight kickoffs for touchdowns.

In the classroom, teachers noted Smolla's flair for writing. Some took him aside, helped him hone his writing skills and study habits, and inspired him to look beyond high school. During his senior year, he was recruited to play football by the service academies and by several colleges in the Midwest.

His mother said her son wrote to the Yale football coach to let him know he wanted to play for Yale. "On his own," she said, "he applied to Yale, got accepted and arranged a financial package."

Once he received his letter of acceptance, Smolla says he and his family "could not understand what this would mean. It was unreal." When father and son packed up the family Dodge in preparation for the two-day drive to Connecticut during the summer of 1971, the occasion marked the first time a Smolla would enroll in college.

At Yale, Smolla made friends easily and immersed himself in his studies.

"I immediately loved the place," he says. "It was like a candy store for me. They put the best teachers in the freshman and sophomore classes, and I became wrapped up in American Studies and in American literature."

Early in his sophomore year, Smolla tore the anterior cruciate ligament in his knee during football practice. At the time, reconstructive surgery was not an option, so the injury ended his football career.

But he moved ahead with his academic work, and in 1975 he graduated *cum laude* with a degree in American Studies. He says he "drifted" into law school, in part, because some of his favorite professors at Yale were lawyers and some friends had chosen the same path.



Susan and David Shi hosted Rodney and Michele Smolla at White Oaks before the announcement; the Smollas, along with sons Miles Taylor (a Furman freshman) and Dylan, meet the press; university administrators welcome Smolla to campus. Photos by Jeremy Fleming.

Jaime Aleman, a classmate of Smolla at Duke Law School who is now the Panamanian ambassador to the United States, says, “On the first day he asked a particularly brilliant question, and I recognized that he was indeed a very gifted person. I made a gentleman’s bet with a friend that this guy would make the dean’s list and be an editor for the *Duke Law Journal*.”

Aleman won the bet. He and Smolla also became close friends and were roommates for two years.

Aleman says that Smolla had an uncommon ability to absorb information and make sense of complicated cases. “He spent less time studying than many because he did not have to,” says Aleman, who describes Smolla as “a regular guy” who never let on that he was the smartest person in the room.

“He carried his intelligence with much dignity. He was never demeaning. Rod is ambitious but unpretentious. He is not self-absorbed in any way.”

After finishing at Duke, Smolla moved to Jackson, Miss., where he clerked for Judge Charles Clark of the United States Court of Appeals for the Fifth Circuit. Clark, a Mississippi native and veteran of World War II, would serve as a valued mentor.

“Judge Clark taught me that character really matters,” Smolla says. “He was extremely modest and never allowed any acrimony or sarcasm in his opinions. He was a complete gentleman. I also learned never to equate a Southern drawl with slowness of thought. I saw some old country lawyers that could out-think anyone.”

In 1980 Smolla returned to Chicago and joined a large law firm. He soon became restless for the academic life, however, and landed a teaching position at DePaul University.

He later taught at the universities of Illinois, Arkansas and Denver, while maintaining a private practice that focused on constitutional law, civil rights, mass media, advertising, defamation and privacy law. In 1988 he was named director of the Institute of Bill of Rights Law at William & Mary’s Marshall-Wythe School in Williamsburg, Va. He remained there until 1996, when he accepted an endowed chair at the University of Richmond School of Law, where he would later become dean.

During the 1980s and ’90s Smolla authored several books, including *Suing the Press: Libel, the Media and Power* (1987), *Jerry Falwell v. Larry Flynt: The First Amendment on Trial* (1988), *Free Speech in an Open Society* (1992) and *A Year in the Life of the Supreme Court* (1995). By the mid-1990s he had established a reputation as one of the top legal minds in the areas of free speech and freedom of the press.

In 1999 he faced a sticky First Amendment issue when he joined a legal team suing a publisher called — ironically, as things turned out — Paladin Press.

Smolla and his colleagues represented the families of three people murdered by a hired killer who had read *Hit Man: A Technical Manual for Independent Contractors*, published in 1983. In the highly publicized case, Smolla called the book a “murder manual” and said that the killer, James Perry, had used it as a guide.

In a unanimous ruling, the Fourth Circuit Court of Appeals agreed, declaring that the First Amendment did not protect Paladin Press from responsibility in publishing *Hit Man*. Smolla later wrote about the case in *Deliberate Intent: A Lawyer Tells the True Story of Murder by the Book*. In 2000 the book became a TV movie.



More high profile cases followed. In *Virginia v. Black*, Smolla questioned the constitutionality of a state law that banned cross burning. Working with the American Civil Liberties Union, he represented Ku Klux Klan leader Barry Elton Black, who had been arrested for burning a 30-foot cross on his farm. Smolla argued that Black's constitutional right to freedom of expression had been violated.

The case went to the Supreme Court. In preparation, Smolla, then dean at Richmond, held mock trials at several law schools and invited law professors to lecture on the case. "It was a great way to prepare," he says with a laugh.

On December 11, 2002, he presented his arguments. For 30 minutes, he answered roughly 70 questions posed by the justices. He remembers it as the "Super Bowl" of practicing law: "I told my colleagues before arguments that we needed to savor this moment. It does not get any better than this." His team won the case.

In 2009 Smolla represented Vicki L. Iseman, a Washington, D.C., lobbyist, in a defamation lawsuit against *The New York Times*. The suit charged that a *Times* story published in February of 2008 had implied that Iseman and presidential candidate John McCain had engaged in unethical activities and had a romantic relationship. The case was eventually settled out of court, with the *Times* publishing a statement that it had not intended to suggest any inappropriate relationship between Iseman and McCain.

On the academic front, Smolla is credited with developing the new third-year experience at Washington and Lee, where he became dean of the law school in 2007.

His idea was to revamp the program so that it teaches more practical applications, such as how to manage clients and work with judges. The redesign emerged in part, he says, from concerns that law schools, while generally doing a good job of teaching students to think like attorneys, fall short of showing them how to actually practice law.

The Washington and Lee program pairs students with law firms and places them in the real world — in other words, engaged learning at its best.

"It helps law students take the critical leap," says Smolla. "They take what they have learned in the classroom and relate it the real world."

As for his plans for Furman, Smolla is not tipping his hand just yet. In December, during his introduction to the university community, Smolla said that he looked forward to having "a great conversation" about the future of liberal arts education.

Citing the university's commitment to developing the whole person, Smolla says Furman's values should remain the same regardless of who sits in the president's office.

"Furman is deeply connected to a number of things that are larger than Furman," he says. "That is what makes Furman Furman. It's what makes Furman unique. I don't want to lose any of that." |F|

Learn more about Rod Smolla and see the video of his December 15 talk at Furman by visiting www.furman.edu and following the links.