

**Joseph F. Anderson, Jr.**  
**District of South Carolina**

*So many of these candidates running for political office running around talking about the revolving-door justice where nobody does any time anymore. I wish they could come in sometimes and see the sentences that are being handed down in federal court, because they are very severe penalties.<sup>1</sup>*

**Appointed by:** President Ronald Reagan, 1986.

**Law School:** University of South Carolina, J.D. 1975.

**Military Service:** U.S. Army Reserve, 1972-1978.

**Prior Legal Experience:** Law clerk, Hon. Clement Haynsworth, 4<sup>th</sup> Circuit Court of Appeals, 1975-76; Anderson, Anderson & Anderson, 1977-86.

**Government Service:** South Carolina House of Representatives 1980-86.

**Background and Reputation in the Legal Community**

After clerking for the Fourth Circuit's Chief Judge Clement Haynsworth, Judge Anderson entered private practice with his family law firm. In 1980, he was elected to the South Carolina House of Representatives where he served until his appointment to the federal bench. Judge Anderson was also active in political campaigns other than his own, twice serving as county chair for Senator Strom Thurmond's re-election efforts, and once for Congressman William Jennings Bryan Dorn's bid for governor. Judge Anderson has been very active in his community as a member, board member, and president of various organizations including the Lion's Club, Jacyees, United Way, and the Boy Scouts. Judge Anderson was a top student at Clemson and at the University of South Carolina Law School where he received many awards. As a practicing lawyer and judge he has published a variety of articles on substantive topics and trial advocacy.

Lawyers give Judge Anderson very high ratings. Survey comments were uniformly glowing about his abilities and intellect. "He is the smartest of all the judges." "I would rate his legal ability very high." "Everybody respects him." He is also considered to be very professional, cordial, and courteous to lawyers before him. Both civil and criminal lawyers consider him fair at trial. At sentencing, most lawyers believe he is fair and compassionate when he can be. However, some note that in attributing points under the Guidelines, he tends to side with the government and he rarely gives a departure unless the government recommends it.

**Richard V. Hamilton, III**

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Sentencing Transcript at 113-14, *United States v. Richard V. Hamilton*, Cr. 3:94-200 (D.S.C. October 27, 1994).

**Charge:** Possession with Intent to Distribute Cocaine; Possession of a Firearm During a Drug Trafficking Offense.  
**Sentence:** 121 months + 60 months (gun count) = 181 months.  
**Release Date:** October 3, 2006.

Without hyperbole, Richard Hamilton's life could easily be made into a TV movie. He enlisted in the Army in 1973 and served with Tenth Army Special Forces in Vietnam. Already decorated for his service, he was wounded in an effort to extract American POWs from a jungle holding area. For this operation, he was personally awarded a Distinguished Service Medal by President Gerald Ford in a hospital room ceremony. Once he recovered from his injuries, he was assigned sentinel duty in the White House as a member of the Presidential Honor Guard and he supervised the changing of the guard at Arlington Cemetery's Tomb of the Unknown Soldier.



After his honorable discharge in 1977, Richard moved to New York where he obtained a B.A. in Business Administration from Pace University and an M.B.A. from New York University. During his time in New York, he volunteered to teach handicapped children to swim and he received a public commendation from the city's mayor for this work.

Richard moved to Florida where he was steadily employed in a number of responsible jobs. From 1981 to 1986 he was a productivity coordinator for the U.S. Postal Service. During his time with the Postal Service, he received financial bonuses and achievement awards for his superior performance.<sup>2</sup> However, he eventually left because of the excessive travel required and switched to a series of jobs including: general manager of a bar/restaurant, operations manager for an international business and administrative officer for Metro-Dade County. When Richard was arrested in 1993, he was employed as a management trainee with the Broward County Parks and Recreation Service.

Richard traces his downward slide to a series of decisions that began in 1992. He quit a well paying job to invest his savings in a sports bar of his own in South Miami, Florida. Eager to get the business started, he had almost completed the renovations before the closing and before obtaining property insurance. On August 24, 1992, Hurricane Andrew blew into Florida and took Richard's dream and his savings with it, destroying the building. Afterwards, he began what he now calls his "Pity Period," in which he drank heavily to deal with his problems.<sup>3</sup> Although he had experimented with cocaine before, he also increased his recreational usage of that drug and he began associating with other drug users and dealers.<sup>4</sup> While complaining to a "friend," Tawana Thompson, about his situation, Richard

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He was chosen to represent the Postal Service in the 1984 Tournament of Roses parade. In that same year, he received the 1984 GEICO public service award and was named Postal Service Man of the Year.

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July 12, 2004 letter to the author at 1 (on file with author).

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reports that she suggested he take a few hundred dollars and invest it in cocaine with her cousin, Blake Pearson, as a way of recouping his losses.

After doing this a few times, Richard went to South Carolina with her in July 1993. Here, Richard's account and the government's theory part ways, with serious consequences for his eventual sentence. Richard's version is that he went to South Carolina to be repaid money from Pearson, and to obtain powder cocaine for his personal use. On July 8, 1993, Richard found himself with Pearson and Tawana at a store in Woodrow, South Carolina. Pearson allegedly asked him to hold some money and some crack cocaine while Pearson went looking to buy powder cocaine for Richard. Richard agreed and stuffed the crack envelopes in his boot.

Based on a tip, officers came to the store to investigate. Seeing a bulge in Richard's pocket, he was frisked and the police found a loaded gun and the drugs in his boot (which totaled just over 20 grams). Another handgun was found in Richard's car.<sup>5</sup> The police then obtained a search warrant for the house where members of this group had been staying. An additional 114 grams of crack was found there.<sup>6</sup> While the police were searching, a number of phone calls were received at the house including one call from Richard made from the jail. While he admitted possession of the drugs in his boot and acknowledged that he knew these drugs would be distributed by Pearson, he denied that he ever sold or intended to sell crack in South Carolina and he disclaimed any leadership role in bringing drugs to South Carolina from Florida.<sup>7</sup>

In addition to Richard, Blake Pearson, Tawana Thomson, and another woman were arrested in this operation, but only Richard was charged in federal court. The government's view was that Richard was the "big fish" who came from Miami to distribute the drugs found in his boot and at the house. Thus, the state police directed the other defendants' cases to state court, even though they, unlike Richard, had criminal records.<sup>8</sup>

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After his arrest, Richard realized that he had become addicted. He participated in drug treatment in the local jail before his conviction and stated to the probation officer who wrote his PSI that going to jail was the best thing that ever happened to him. He complains now that the BOP does not make drug treatment available to inmates until they are 20 months shy of their release date. He asks how inmates can get clean in nine months after years as addicts (even in prison, where he states that drugs are still available).

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There was evidence that Richard's guns were legally registered to him in Florida and that he had a permit to carry the guns as well.

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There was a dispute at sentencing as to whether Richard was actually staying at this house, but the court resolved this issue in favor of the government, holding that there was enough evidence of his association with the residents and the location to support the government on this issue.

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The probation officer wrote in the report that Richard admitted that another purpose of the trip was to help Tawana arrange to bring drugs from the Miami area to South Carolina by means of Fed Ex or UPS.

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Richard had never been arrested prior to this incident and he represents that he had never even gotten a speeding ticket.

Richard faced charges of possession with intent to distribute and possession of a firearm during a drug trafficking offense, which carried its own consecutive five-year mandatory minimum. Because Richard initially agreed to plead guilty and cooperate, the government initially agreed to hold him responsible only for the drugs in his boot and not to count the crack in the house as relevant conduct, despite their contrary theory of the case. The government also agreed that it would consider making a substantial assistance motion. However, in the plea agreement, the government required that Richard take a polygraph exam and included an “opt out” provision if he were deemed to fail the test. While neither a transcript of the polygraph examination nor its results are available, the government represented to the court that elements of Richard’s story were found not to be truthful.<sup>9</sup> Therefore, the government reneged on its promises in the plea agreement and asked that the crack found in the house be included as relevant conduct. Based on the polygraph, the prosecutor also opposed any reduction for acceptance of responsibility, which would otherwise have been granted due to the early plea (and which had been recommended by the probation officer in the PSI).

After an extended sentencing hearing, Judge Anderson agreed with the government on these points. Thus, instead of the Guidelines range of 57-71 months contemplated by the plea agreement,<sup>10</sup> the drugs in the house raised his Offense Level to 32, with a range of 121-151 months. Added to that was the consecutive 60 months for the gun count, leading to a sentence approximately five years longer than was originally contemplated by the parties.

Before he was sentenced, Richard apologized for his conduct and his mistakes, but he insisted that he was not a drug dealer. Judge Anderson responded by noting that he had ruled against Richard on a number of matters because, “you and I just have some honest disagreements about the record in this case.”<sup>11</sup> Nevertheless, he sentenced Richard at the bottom of the range leading to a final sentence of 181 months, telling him that this “is a long time for a first offender to serve.”<sup>12</sup> He told Richard that unfortunately for him

. . . the Congress of the United States has determined that cocaine, and crack cocaine in particular, is an extremely damaging element to our society, and you have been determined to have possessed a large amount of it, and it is a severe sentence.

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Richard insists to this day that he did not lie on the polygraph and he has filed numerous requests for the results from a variety of government agencies, all to no avail. The government contends that the polygraph results cannot be found.

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The crack in the boot weighed 20.48 grams which technically would have required a Base Offense Level of 28 (which applies to 20 to 35 grams of crack). Given how close the amount was to the next lowest range, he might have tried to argue for the drugs to be re-weighed which could have taken him down to Level 26. Assuming a Level 28, however, he would have been given three points off for the early plea taking him down to Level 25. With a mandatory minimum of five years for the drugs and five more for the gun, his minimum sentence would have been 120 months.

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Sent. Tr. at 113.

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Sent. Tr. at 113.

come in sometimes and see the sentences that are being handed down in federal court, because they are very severe penalties.<sup>13</sup>

At the time he was sentenced, Richard was married, but his wife had already separated from him due to his substance use. He had one child with her and had previously adopted her son. He also had a child from a previous relationship for whom he provided child support. Both mothers told the probation officer that he was a loving father and a good man.

Since his incarceration, Richard's prison record has been exemplary. He became a serious Christian and has devoted himself to his fellow inmates, helping over one hundred prisoners obtain their GEDs and running a literacy program within the prison. He also regularly speaks to students and church groups about the dangers of drug use. Personally, he obtained a second master's degree in health administration through a correspondence course and he has shared his management expertise with the prison, designing an inspection tracking system for his institution. One supervisor wrote, that his "work ethic and attitude towards his incarceration are the best I have witnessed since my employment with the Federal Bureau of Prisons."

Richard remarried in prison in April 2004 and he speaks with his new wife almost every day. The effect of his incarceration on family, however, has been costly. His mother and other relatives have died while he has been in prison and his children went from being honor role students to achieving only average grades. Still, Richard maintains his faith by assisting the prison chaplain and through his work with other prisoners. His life has attracted the attention of others, including Dr. James Conner, Ed.D., a retired university president who has written about his case. Richard aspires to a career as a motivational speaker and he started a Zig Ziglar chapter after two visits by Mr. Ziglar to his institution.<sup>14</sup>

Richard writes that he is sustained by the words of Victor Frankl, a concentration camp survivor who said, "Everything can be taken from a man but one thing: the last of human freedoms – to chose one's attitude in any given circumstance, to chose one's own way."<sup>15</sup>

*Compiled from PSI, Sentencing Transcript, appellate opinion, PACER docket sheet, inmate letters, case summary by James Elwood Conner, Ed.D.*

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Sent. Tr. at 113-114.

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Zig Ziglar is a business consultant and motivational speaker. See <http://www.ziglartraining.com/>

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See James Elwood Conner, Ed.D., *From Jungles of Southeast Asia! To White House? To Jail House? . . . and Beyond* at 4 (quoting Richard's reliance on these words) (copy on file with author); see also [http://quotes.liberty-tree.ca/quotes\\_by/viktor+frankl](http://quotes.liberty-tree.ca/quotes_by/viktor+frankl).