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In Memoriam

Remembrance of Judge Diana E. Murphy

Ruth Bader Ginsburg[†]

Diana Murphy was a model of what the good judge should be: diligently prepared for each case that trooped before her, wise and witty, speaking in a calm-inducing voice, yet ranking among her colleagues as a towering presence.

Serving as a judge in Minnesota state courts early in her legal career, Diana Murphy became a federal judge in 1980, as I did. Both of us were beneficiaries of President Carter's determination to change the complexion of the U.S. Judiciary by appointing women and members of minority groups in numbers, no longer as one-at-a-time curiosities. Throughout her service in the Federal Judiciary, Judge Murphy garnered respect and admiration as a jurist of wit and wisdom, and a grand human in all respects. It was my good fortune to have known her as working colleague and treasured friend.

Diana was serving as Chief Judge of the U.S. District Court for the District of Minnesota when President Clinton, in 1994, appointed her to the U.S. Court of Appeals for the Eighth Circuit. As the first woman seated on that Court of Appeals bench, she remained the lone woman serving on the Eighth Circuit for nineteen years. For five years, from 1999 until 2004, she headed the U.S. Sentencing Commission, a daunting assignment. Diana performed it valiantly while still carrying a heavy load of appeals to the Eighth Circuit.

Earlier, from 1990 until 1994, Diana served on the Board of the Federal Judicial Center, the educational arm of the U.S. Courts. As a long-term board member of the Federal Judges Association and its President from 1989 until 1991, she strived mightily to advance the interests (including the compensation) of her brothers and sisters on the Federal Bench. She also served with distinction first as a member, then as chairperson, of the board of the American Judicature Society.

[†] Associate Justice, Supreme Court of the United States.

Must a woman who aspires to a career on the bench forsake home and family life? Diana was married in 1958 and, together with her husband, raised two sons, born years before she entered law school. Her work and days prove that the answer to the question just posed is emphatically “No.” A woman can be a caring parent and an engaged professional. Diana was a sterling example. In managing home and professional lives, she proved to be a skilled balancer and an expert juggler. Diana’s leadership of the Eighth Circuit’s Gender Fairness Task Force was typical of her constant concern for women’s wellbeing. Richard S. Arnold, when he was Chief Judge of the Eighth Circuit, described the task force report as “thorough, factual, and progressive . . . without exciting the strong adverse emotions that similar efforts have caused elsewhere.”

Diana credited the University of Minnesota for “open[ing] the world to [her].” In turn, she made generous contributions of her bright mind and brave heart to her alma mater.

Lawyers who appeared before Judge Murphy praised her fairness and courtesy, her evenhandedness in striving to get it right, her courage in deciding cases as the law and justice demand, even when the result would not please the home crowd. She is appreciated for the clarity and thoroughness of her opinions and legal commentary, written in accessible language and without rhetorical flourishes. In diverse fields, her opinions have been pathmarking, aiding judges faced with similar issues to see the path through the trees.

Skelly Wright, Chief Judge of the D.C. Circuit when I joined that Court, sometimes repeated, as a reminder to his colleagues on the bench, Dr. Seuss’s gentle maxim: “A person’s a person, no matter how small.”¹ Diana Murphy’s decisions reflect that understanding. She promoted respect and equal justice for people without deep pockets or political clout, among them, Native Americans, prisoners, and persons encountering harassment or disregard because of their race or sex.

In 2001, Judge Murphy received the Edward J. Devitt Distinguished Service to Justice Award, the highest honor bestowed on a federal judge. I chaired the selection committee that year and was impressed, but not surprised, by the legions of lawyers and judges who wrote of the extraordinary qualities that made Judge Murphy eminently worthy of the award. Those qualities included her intellectual honesty and jurisprudential objectivity;

1. DR. SEUSS, *HORTON HEARS A WHO!* 5 (Harper Collins Publishers 2010) (1954).

her kindness and empathy in dealing with people; her soft-spoken, solicitous, yet uncommonly persuasive manner.

Judge Murphy shared with me an affinity for classical music and a passion for opera, evidenced by her service on the Board of the Minnesota Opera. It is fitting, then, to close this remembrance with a rousing Brava for all the good she has done.