

A Tribute TO THE HONORABLE RUDOLPH T. RANDA

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of Wisconsin*



The Honorable Rudolph T. Randa of the United States District Court for the Eastern District of Wisconsin, passed away in the early morning hours of September 5, 2016, after a nine-month battle with cancer. He was 76 years old. He left behind his loving wife Melinda, devoted sons Rudolph and Daniel, and many other relatives and friends. He lived a full and remarkable life.

Judge Randa was born on July 25, 1940 in Milwaukee. His father was a sheet metal worker, and his mother was a homemaker. He attended local public schools and graduated from Riverside High School with honors and as Class President. His senior year of high school he served on the prom court with his classmate, the late Judge Terry Evans, in what they would later describe as the first of three courts they would serve on together.

Randy, as his friends and family often called him, went on to earn a bachelor's degree with honors from the University of Wisconsin-Milwaukee in 1963, as a distinguished military graduate, and a law degree from

Continued on page 54

**I wish to acknowledge the assistance of Judge Randa's wonderful Staff, including Judicial Assistant Cary Biskupic, Deputy Clerk Linda Zik, Law Clerks Sandra Gegios and Troy Martell, and former Law Clerks Tom Hrdlick and Gordon Giampietro.*



A Tribute

Continued from page 53

the University of Wisconsin Law School in Madison in 1966.

Upon graduation from law school, he fulfilled his military commitment by serving in Vietnam from 1967 to 1969.

While serving in Vietnam, Randy rose to the rank of Captain and Company Commander. For his service in Vietnam, he was awarded the Bronze Star Medal, the Vietnam Service Medal with 5 campaign stars, the National Defense Medal and the Vietnam Campaign Medal. Like many veterans, Judge Randa spoke little of the horrors he had witnessed during the war, choosing instead to share more of the positive moments, such as working at an orphanage on his days off and praying at a monastery in the hills.

Upon his discharge in 1969, Randy worked briefly in the Office of the Attorney General in Washington, D.C. In 1970, he returned to the city he loved and joined the Milwaukee City Attorney's Office. In 1975, Randy was elected Municipal Judge for the City of Milwaukee, the first of four judicial offices he would serve in over the next 41 years. He was elected to the Circuit Court of Milwaukee County in 1979, and appointed to the Wisconsin Court of Appeals in 1981. Judge Randa was re-appointed and re-elected as a circuit judge in 1983, where he served until 1992. He also continued to fill in on the Court of Appeals from 1983 to 1985.

In 1992, Judge Randa was nominated by President George H. W. Bush to succeed Judge Robert Warren on the United States District Court for the Eastern District of Wisconsin. His nomination was confirmed by the United States Senate on August 11, 1992, by unanimous consent. From 2002 to 2009, Judge Randa was Chief Judge of the District. In 2002, Chief Justice Rehnquist appointed Judge Randa to serve on the Codes of Conduct Committee of the United States Judicial Conference, a position he held until 2008. Judge Randa continued as an active member of the Court until he took senior status in February 2016, following the first surgery for his cancer. Even after taking senior status, Judge Randa continued to handle cases, hoping for an eventual recovery until early August when his condition worsened and his cases were transferred to the other judges in the district.

Judge Randa was loved and respected by all who worked with and knew him. His staff regarded him as the light of their chambers, and he thought them the best staff a judge could have. Every morning he would enter his chambers with a smile on his face and issue a bright and cheery "Good Morning" that would lift the spirits of all present. He had a wonderful sense of humor that would be on full display on those occasions when he would regale his staff, colleagues and friends with humorous stories drawn from his own experiences or from comedy acts of a bygone era. He also maintained a steady repertoire of one-liners. For example, asked "How are you?", he would often respond, "Some say great." Even at the end, while lying in a hospice bed, he retained his sense of humor. When a nurse, in response to a question about the general condition of the patients in the facility put to her by one of his many visitors, said most of the patients there were acute, he countered "Some are ugly." He also had an incredible memory.

This is not to say that Judge Randa was not serious about his work. He was fully aware of the honor and privilege it is to be entrusted with the power and authority of a United States District Judge and did his best to prove worthy of it. His oath of office was not merely ceremonial; it was a solemn promise publicly made before God that he did his best to carry out throughout his career. As one of his law clerks described him, he was decisive and steadfast in his determinations, but he never hesitated to take more time to ponder an issue if he thought it necessary. He was also a genuine student of the history of our nation and its formation, taking particular interest in the views of the Founders and the documents they drafted. His decisions reflected his belief that as a trial judge, his primary responsibility was to decide the issue before him impartially and in accordance with the law, explaining his reasoning as clearly and promptly as he could.

Not only was he diligent in carrying out the duties of his office, Judge Randa also insisted upon a formality in the courtroom that has become more rare in many courts across the country. But it was not because of an inflated sense of himself that Judge Randa ran a formal courtroom; in fact, he was personally quite humble. It was because of the importance of the office he held and of the work that took place in his courtroom that he insisted that all participants in proceedings before him conduct themselves in

Continued on page 55



A Tribute

Continued from page 54

accordance with the rules and customs that have traditionally governed legal proceedings in the federal courts. In this respect, his views were similar to those expressed by Judge Sarah Evans Barker of the Southern District of Indiana:

The reality is that in the judicial system, judges and lawyers deal with and manage significant amounts of power—that’s in truth “what we are doing,” as Joseph Campbell would say it—and unless the exercise of that power is cloaked in forms and processes and rituals which are calculated to provide constant reminders to everybody involved that that’s what we’re doing—to concentrate the mind on that fact and its implications—the process will degenerate quickly into nothing more than arbitrary power. The forms we use and the rituals we employ prevent that degeneration into pure arbitrariness.

Hon. Sarah Evans Barker, *Ritual & Civility – What Difference Does A Good ‘Oyez’ Make?*, 39 JUL Res Gestae, 10 (1995). The importance of formality can be difficult to see in a country that values informality as much as ours. Judge Randa was one of those that saw it as essential to the role of the courts.

Formality was not an excuse for harshness or incivility, however. Judge Randa treated everyone who appeared before him – attorneys, civil litigants, jurors and criminal defendants – with courtesy and respect. One would be hard-pressed to find an attorney who complained that he or she had been ill-treated by Judge Randa. Though they might disagree with his ruling, few if any ever complained that they had not been treated courteously, listened to carefully, and given a full opportunity to make their record. He also genuinely cared about those who worked at the court, whether they were his colleagues on the bench, the members of his chambers staff, employees of the Clerk, security personnel or building staff. In fact, when he was late, it was often because he had been stopped in the hallway on his way to his chambers by other employees who found him so engaging and approachable.

Despite his many positive attributes and accomplishments, some sought to portray Judge Randa as a partisan who used his office to

impose his conservative ideology on others. Only those who did not know the man, or failed to read or understand his decisions could hold such a view. Judge Randa’s decisions flowed from his view of the facts and the law, guided by his understanding of the limited but essential role that courts play in our constitutional republic. The role of the court, as Judge Randa saw it, was to decide the case by the rule of law, not the view of the judge who happened to be assigned.

This entailed a certain modesty and restraint in most cases, but in others a willingness to say or do the unpopular. On the one hand, Judge Randa was a small “d” democrat; he believed that except when they ran afoul of a specific provision of the Constitution, the laws enacted and actions taken by the people’s representatives were not to be enjoined by unelected judges, no matter how strongly the individual judge might disagree with the policy choice reflected in the law or action at issue. On the other hand, Judge Randa believed that when the law enacted or action taken by government officials did run afoul of the Constitution, it was the duty of the court to say so, no matter how unpopular it made the judge. He saw the Constitution not as a “living document” that judges were free to change as they saw fit, but as “a pact made between the American citizens then and now to secure the blessings of liberty to themselves and their posterity by limiting the reach of their government into the inherent and inalienable rights that every American possesses.” *O’Keefe v. Schmitz*, 19 F. Supp. 3d 861, 868 (E.D. Wis. 2014), *reversed on other grounds*, 769 F.3d 936 (7th Cir. 2014).

Above all, Judge Randa was a man of faith. He saw life and the world around him through the eyes of his Catholic faith. By saying he saw the world through the eyes of faith, I do not mean that Judge Randa saw a different world than the one we live in; I mean he saw the world and his place in it more fully, more completely. To him, human beings were not the unintended products of an impersonal evolutionary process with no meaning or purpose except as recognized by the state or its government. That was how totalitarian nations viewed and treated their citizens. This country’s founding document declared human beings to be prior to the state. They were endowed by their Creator with inalienable rights, and governments existed to protect and preserve those rights. And though not all were equal in aptitude and abilities, all were equally human and, thus, equal in dignity and in the rights to life, liberty and the pursuit of happiness. Building on his understanding gained through experience and reason, Judge Randa further saw through the eyes of faith that human beings, equipped as they are with intellect and free will, were made in the image and likeness of God for a purpose beyond



A Tribute

Continued from page 55

this life. He believed, with C. S. Lewis, that he had never met a “mere mortal,” and he treated everyone he met accordingly.

This did not mean he did not believe some people belonged in prison. Indeed, it was because they had free will and could have acted differently that Judge Randa believed that people who committed crimes were deserving of punishment as a matter of justice, as well as for deterrence and protection of the public. But he never lost sight of their humanity. As a result, for Judge Randa, as for many judges, sentencing was the most difficult part of the job. He thoroughly prepared for each sentencing, carefully reading the presentence report and any other material that was submitted. He listened attentively to the arguments of counsel and especially to the defendant’s allocution before pronouncing his sentence.

Like anyone who has spent time in the criminal courts of this country, Judge Randa was aware of the social pathology that afflicts large segments of the population. Family breakdown, childhood abuse and neglect, drug and alcohol addiction, lack of education, unemployment, mental illness — all pose significant obstacles to the development and maintenance of the good habits, the virtues, that are essential to a happy, successful and law-abiding life. Frequently, one cannot read the background section of a presentence report describing the upbringing of the defendant without wondering what he or she would be like if raised in the same environment. Though the need for prison for protection of the public as well as for deterrence may be clear, true moral culpability is difficult to assess under such circumstances. Faced with these difficult cases, Judge Randa did his best to assess the various factors relevant to the sentencing determination and arrive at a just sentence for each defendant. But he did not forget about them thereafter.

Unbeknownst to most of his colleagues, Judge Randa on many occasions added as a condition of supervision that a defendant meet with him in chambers after he completed the confinement portion of his sentence and before he started his term of supervised release. Then, when the meeting would occur, Judge Randa would ask the defendant about how he did in prison, how his family was getting along and what his plans were now that he was released. His encouragement and interest in their lives, our Chief Probation

Officer has told me, meant a great deal to several of the defendants that met with him.

His relationship with one defendant, in particular, stands out. It was recounted by Tom Hrdlick, Judge Randa’s first law clerk, in the eulogy Mr. Hrdlick gave at the Judge’s funeral. Fifteen days before he was diagnosed with cancer, Judge Randa wrote a letter to a man that he had sentenced to 25 years in prison ten years earlier. No one knows why Judge Randa wrote the letter, other than the fact that it was the tenth anniversary of his sentence, which Judge Randa noted in his letter. The letter first expressed Judge Randa’s hope that the man was taking advantage of any programs the prison offered for self-improvement. “Second, and more important,” Judge Randa wrote, he wanted the man to know “that I think of you and pray for you on a daily basis and have done so over these last ten years.” Judge Randa closed his letter with a request that the man pray for him.

As Mr. Hrdlick explained, it took only eight days for that man to respond. He told Judge Randa that his letter had really touched his heart, that he was indeed doing well having been transferred to a low security prison for good behavior, and that he had been baptized and given his life over to God. By the time Judge Randa received that response, he had been diagnosed with cancer and undergone the first of his two brain surgeries. But the judge was overjoyed by the response, noting that his prayer for everyone he had ever sentenced was that they would find that ultimate gift he had found. The correspondence between the sentencing judge and the sentenced inmate continued over the next several months, with Judge Randa writing in the final letter he was able to send: “Whatever the future holds, you are an inspiration to me. I, of course, continue to pray for you every day and I know things will work out for you. Remember, we walk by faith, not by sight. What is not immediately visible is so much greater than what we see.”

We live in a world in which most of us are focused inordinately only on what is immediately visible, and many deny anything more even exists. Even when what is visible, what we experience, cannot be otherwise accounted for, we insist this is all there is. Judge Randa saw a much larger world that included both the visible and the invisible and that gave meaning and purpose to his life in the present and hope for eternal happiness in the hereafter. Those who knew and loved him will miss him. At the same time, we feel blessed for having known him.