



Hon. Franklin L. Noel

U.S. Magistrate Judge, District of Minnesota

by Tiffany A. Blofield



Tiffany A. Blofield has over twenty-one years of experience in diverse litigation matters, including matters related to Intellectual Property. She is proud to be a Qualified Neutral, allowing her to conduct mediations. As a member of the International Trademark Association ("INTA") Trademark Mediators Network, she has special expertise to also handle the specialized area of trademark law.

U.S. Magistrate Judge Franklin L. Noel has had a distinguished career and the District of Minnesota has been the beneficiary of his service over the last almost 29 years. He served as chief magistrate judge from 1995 to 2002 and is currently serving his fourth eight-year term on the bench. During his time, Judge Noel has worked both on and off the bench to ensure equal justice under the law.

Life Before the Bench

Judge Noel was born in New York. He is the first lawyer in his family. Despite this, he knew he wanted to be a lawyer from a fairly early age. He had a book report assignment given to him in seventh grade where he chose to read a book by Irving Stone about Clarence Darrow. In addition, being a movie aficionado even at an early age, he went to see the movie "Inherit the Wind," which is based on the 1925 Scopes Monkey Trial. Judge Noel knew that law was his calling, and in particular he wanted to be a criminal defense attorney.

Judge Noel earned his law degree from the prestigious Georgetown University Law Center in Washington, D.C. He began his illustrious career at the law firm of Arnold & Porter. Judge Noel chose the firm because it had interesting people and a rich history. Supreme Court Justice Abe Fortas had worked at the firm, and the firm had represented folks who had refused to testify before the House Un-American Activities Committee or took the Fifth Amendment during the McCarthy Era. He spent two years at the firm. He knew that he still wanted to be a criminal defense attorney. He determined that the best path to being a criminal defense attorney was to first become a prosecutor. Accordingly, he secured a position as a prosecutor with the district attorney in Philadelphia, Ed Rendell.

When Judge Noel's wife, Ellen, graduated with a master's in business administration, she was offered a job at Pillsbury in Minneapolis. The couple decided to move to Minneapolis where they would ultimately raise their two children, Kate and Charlie.



Judge Noel secured a job at the Minnesota U.S. Attorney's Office in 1983 with then U.S. Attorney James Rosenbaum. He worked there for six years where he specialized in white-collar crime and developed a reputation for dogged prosecutions of complicated fraud cases. He was talented and became a leader in the office.

Service on the Bench

President Ronald Reagan appointed Rosenbaum to the federal bench in 1985. Four years later, Judge Noel became a magistrate judge. The two worked together again as judges until Rosenbaum retired in 2010. Former Chief Judge Rosenbaum commented that Judge Noel has a wonderful reputation at the court.

Former U.S. Magistrate Judge Jonathan Lebedoff is a friend and former colleague who chambered near Judge Noel. Judge Lebedoff shared that:

Magistrate Judge Noel has an encyclopedic knowledge of the Federal Rules of Civil Procedure and also has a deep knowledge of movies. The most important to me being his knowledge and passion for movies. Magistrate Judge Noel

and I spent many delightful hours discussing movies and Federal Rules, take your pick.

Looking back on his career, Judge Noel has handled many memorable and important cases. One that came to mind for Judge Noel (and one on which I had the pleasure of working with him as a law clerk) was a case involving Malcolm X's daughter that came into his courtroom in 1995 along with national and international press covering the case. Qubilah Shabazz was charged with conspiring to assassinate religious leader and African-American activist Louis Farrakhan. Judge Noel explained that "the FBI had an undercover informant who recorded conversations with Qubilah Shabazz about conspiring to kill Farrakhan in revenge for him having killed her father."

Another case that stood out for Judge Noel was *United States v. Skye Davis*. The case involved a complicated fact pattern, but is representative of the kinds of cases he thought were the most rewarding. Routine cases where the Constitution serves to protect the rights of ordinary people accused of crimes.

Interim U.S. Attorney for the District of Minnesota Greg Brooker shared that:

In my nearly 20 years in the U.S. Attorney's Office, practicing exclusively in federal court, I found Magistrate Judge Noel to be prepared for all hearings and settlement conferences. In addition, he was always the first to volunteer to be on substantive federal court and federal bar committees and working groups. He will be missed.

Federal Defender for the District of Minnesota Katherine Roe explained that:

Even though he is a former AUSA, criminal defense attorneys love to draw him. Why? Because he is smart, he is engaged, and he knows the law. And even if you have an "uphill climb," which we usually do, he will give you the opportunity to persuade him that you should prevail. Combine that with the fact that he is just a really nice guy who loves his work, and you can't do better than that.

Chief District Court Judge for the District of Minnesota John Tunheim stated that Judge Noel is a terrific magistrate judge and a leader throughout the entire U.S. magistrate judge system. He has the deepest admiration for him and his career. Judge Tunheim shared that Judge Noel is easy to work with, thoughtful, and willing to challenge the conventional wisdom in an appropriate manner. Judge Tunheim appreciates that Judge Noel really thinks through all of the issues before him and where appropriate comes up with different ways to approach the issues.

The Judge's Active Service Outside the Courtroom

Judge Noel has long been a scholar of constitutional law

and it has been important to him throughout his career. He has shared his expertise and interest in the Constitution by teaching "Federalism, the Intersection of Law and History," and Advanced Criminal Procedure (and also taught legal writing) as an adjunct professor at the University of Minnesota Law School.

Chief Inclusion Officer for Governor Dayton and former law clerk James Burroughs is appreciative of Judge Noel hiring him as a law clerk in 1992. As a black man from outside of Minnesota, Burroughs explained that he was not prepared for Minnesota where he found that "racial diversity was essentially nonexistent." Judge Noel and Burroughs worked together to increase the number of black, Asian, Hispanic, and Native American law clerks in Minnesota. This included supporting the creation of the minority clerk program. Judge Noel encouraged his colleagues to hire clerks from other law schools and backgrounds and increase diversity. As a result, many more law clerks of color began working in Minnesota. Burroughs explained that Judge Noel was a catalyst and pioneer for diversity long before it became the popular thing to do. Judge Noel has always done diversity and for the right reasons.

Judge Noel has been involved in many community outreach programs throughout the years, including those involving diversity issues. For example, Judge Noel was involved with the Freedom Riders exhibit and presentation, honoring those nonviolent protesters who risked their lives to ride interstate buses into segregated southern United States in 1961. Judge Noel, along with others from the bench, spoke at the presentation. Five of the brave Freedom Riders who lived in Minnesota also spoke at the moving presentation.

Judge Noel was also actively involved with the outreach program involving the National Constitution Center and Constitutional Accountability Center that celebrated 150 years of the reconstruction amendments, namely the Thirteenth, Fourteenth, and Fifteenth Amendments. There was a presentation of the "American Denial" film in January 2017 at Normandale Community College. The film was followed by a brief lecture from a history professor from the college about the adoption of the amendments. Judge Noel invited Burroughs and others to participate in a panel discussion following the movie.

Judge Noel also ran the "Open Doors" Program for a couple of years. The program in 2015 involved celebrating the life and career of Supreme Court Justice Thurgood Marshall. Over 65 volunteer lawyers and judges went to more than 60 high school classrooms in Minneapolis, St. Paul, and Bloomington to discuss with the students the life and career of Justice Marshall and to share their own personal stories of how they decided to pursue careers in the law.

Judge Noel has also been actively involved with the award winning *Pro Se* Project in Minnesota. This project is a collaboration between the Minnesota Chapter of the Federal Bar Association and the federal bench to

increase access to justice for civil *pro se* litigants in federal court. Senior District Court Judge Michael Davis, while he was chief judge, appointed Judge Noel as the court's liaison to the *Pro Se* Project where Judge Noel was a major contributor and served for a number of years. Coordinator of the *Pro Se* Project Tiffany Sanders described Judge Noel as "a great steward for the project and the court" and said that "the *Pro Se* Project would not be what it is without him."

Judge Noel served for six years on the Committee on Criminal Law of the Judicial Conference of the United States. Judge Noel explained that it was fascinating work and rewarding to be able to influence procedure and judicial policy. During his service, Judge Noel assisted in drafting the *first* probation guidelines for pre-trial and post-conviction supervision of sex offenders. He was also involved in revising bond forms in criminal cases with the conditions of release and drafting detention order forms.

Judge Davis described Judge Noel as a stalwart in dealing with criminal law issues, especially Fourth Amendment issues that constantly come before the court. Further, Judge Noel assisted Judge Davis and others in analyzing criminal files related to the release of defendants that resulted in a report about what the court could do better to allow for release of prisoners under more nonrestrictive conditions. Judge Davis described the results as, at that time, moving the court into the 20th century on these issues.

Judge Noel also served on the Federal Practice Committee in the District of Minnesota since the early 1990s. This committee is a statutorily created body charged with recommending modifications of the local rules governing private practice. Judge Noel was particularly instrumental in assisting with revisions to rules and forms governing Criminal Discovery and Pretrial Motions (Local Rule 12.1), as well as revision of the rules related to pre-trial case management (Local Rules 16.1-16.4), together with the rule adopted pursuant to the Alternative Dispute Resolution Act of 1998 (Local Rule 16.5).

One thing people may not know about Judge Noel is that he is an avid high-level numismatist (coin collector). He has written articles on the subject.

I have had the honor of knowing Judge Noel since 1995. I was privileged to have worked for this brilliant jurist as a law clerk and to have him as a mentor and friend since then. Although he is retiring, Judge Noel will remain a mentor and friend to the many people he has come in contact with, taught, and inspired. His legacy will live on long after he is no longer sitting on the bench.

In the Words of the Judge

Judge Noel explained that his most rewarding experience as a judge was the ability to influence and have an impact on the lives of people at their most vulnerable or during their worst days. For civil cases, the judge assisted litigants with settlement that allows the lives of the litigants to go forward in a better way than if they had not settled. The same is true for criminal defendants

where the judge can influence the progress of their cases and help them move on with their lives.

When asked to name the historical figure he respected most, Judge Noel, as he always does, gave an intelligent and thorough answer. He could not limit himself to one such historical figure, so like Thomas Jefferson when asked a similar question by Alexander Hamilton, offered three figures. Judge Noel started by explaining that "historical figures must be judged against their own time and place and not by 21st century standards." His trinity includes:

- Thomas Jefferson: A polymath who influenced too many areas of American and international culture to count. His authorship of America's founding document, the Declaration of Independence, what historian Pauline Maier called "American scripture," would alone be enough. To be sure, Jefferson is a controversial figure, both now and in his own time. But as historian Annette Gordon-Reed documented in her book, *The Hemingses of Monticello*, he was also a complex one.
- Elizabeth Cady Stanton: One of the organizers of the Seneca Falls Convention in 1848 and the primary author of its Declaration of Sentiments, the first comprehensive statement of American women's rights, which was based in form on Jefferson's Declaration of Independence.
- Charles Hamilton Houston: Dean of the Howard Law School and mentor to Thurgood Marshall. Together they implemented Houston's vision of how to use the Fourteenth Amendment's equal protection clause to break down Jim Crow laws in the first half of the 20th century, and to restore the Reconstruction Amendments (Thirteenth, Fourteenth, and Fifteenth) to their rightful place in constitutional law and history."

Judge Noel's parting message: "To all of the judges of the district court who gave me the opportunity to serve in this judicial capacity, to the more than 20 other magistrate judges with whom I have had the pleasure to serve, to all of my 25-plus law clerks who did all of the heavy lifting, and to my judicial assistants Cathy Orlando and Theresa Anderson who kept the train from running off the rails for nearly 29 years, I am grateful. It has been a very enjoyable ride." ☺