



IN MEMORIAM

Hon. Larry J. McKinney

District Judge, U.S. District Court for the Southern District of Indiana

by Tim A. Baker



Tim A. Baker is a U.S. magistrate judge for the Southern District of Indiana. He clerked for Judge Larry J. McKinney from 1989 to 1991. This article is reprinted with the permission of the Circuit Rider. © 2018. Timothy Baker. All Rights Reserved.

Friend. Mentor. Judge. Family man. Role model. Humorist. No single word adequately describes Judge Larry J. McKinney, who died on Sept. 20, 2017. His unexpected passing at age 73 leaves a void that will never truly be filled.

McKinney was born on the Fourth of July in 1944, in South Bend, Ind. “I was 12 years old before I finally realized that my dad wasn’t telling me the truth when he told me all that celebration was just for me,” McKinney said in an interview a few weeks before his death.¹ A stellar Indiana trial court judge who served as U.S. district judge for the Southern District of Indiana for 30 years, McKinney remained a humble man known as much for his quick wit and sense of humor as his intellect and work ethic.

McKinney graduated from South Bend John Adams High School in 1962. It was during this time that McKinney got his first taste of power, when he was assigned to introduce a speaker to the student body. After the speaker was done, it dawned on McKinney that none of the 1,500 students in attendance, or the teachers or the principal, could leave until he dismissed them. McKinney recounted that he walked “slowly” over to the microphone. “I took five minutes to summarize his points and then dismissed everyone. And you should have seen them. I had kids sitting on the edge of their seats in the front row just waiting to race to their classes. And the longer and the more they bent over and the more inertia taking them toward the door, the longer my summation took. I really enjoyed that,” McKinney said with a familiar twinkle in his eye.

Following high school, McKinney attended MacMurray College in Illinois, where he met his wife Carole. He asked her to marry him on their graduation day in 1966, and they enjoyed 51 years of marriage until his death. Following graduation from MacMurray, McKinney attended Indiana University (IU) Mauer School of Law in Bloomington, and Carole pursued a graduate degree at IU in psychology. Though there were no lawyers in his family, McKinney said he was drawn to the law because of the esteem in which lawyers were held in their communities and because



being a lawyer gave him the opportunity to help others.

Upon his graduation in 1969, McKinney accepted a position with the Indiana Attorney General’s Office for \$7,200 per year. The McKinneys’ lean earnings left little room for frolic. “I kept a journal of our expenses one year,” McKinney said. “Our entire entertainment expenses for one month was 35 cents. It was for a 25-cent Dairy Queen for me and a dime Dairy Queen for Carole.”

The McKinneys’ financial outlook improved over time, if slowly. McKinney opened a private law practice, Rogers & McKinney, with Charlie Rogers in Edinburg, south of Indianapolis. The law firm began inauspiciously. McKinney and Rogers made a sign for their law firm they were very proud of—if only briefly. “Then a puff of wind came along and just blew that thing down in 30 seconds,” McKinney said. “I never did put it back up. I’ve still got that sign at home. I was just quite proud of the sign that lasted 30 seconds.” After painting and wallpapering his new law office, McKinney landed his first client. Except it wasn’t legal work the man wanted; he asked McKinney to remodel his kitchen. “I thought to myself, this

is another one of life's crossroads," McKinney joked.

In 1974, McKinney joined forces with Jim Sargent in Greenwood, Ind., at Sargent and McKinney. Around this time, McKinney had mentioned an interest in becoming a judge to the heir-apparent to the Johnson County Circuit Court judge. Serendipity resulted in that person opting to remain in private practice. McKinney jumped in, won the Republican primary, defeated his World War II hero Democrat opponent, and was sworn in as the Johnson County Circuit Court judge in 1979. The McKinneys had started a family by this time, with their first son, Josh, being born in 1976. "I was just so proud," McKinney said. "I just was thrilled." A second son, Andrew, followed in 1980.

Back in those days, state court rules permitted an automatic change of venue. McKinney was developing a reputation as a skilled trial judge, and many big firm

lawyers in Indianapolis were eager to have him hear their cases, even though they risked a longer wait given McKinney's increasingly heavy caseload. McKinney estimated he had more than 100 jury trials in his first six years on the bench, in addition to handling countless guilty pleas, sentencing, divorces, child support modifications, and other court-related responsibilities. He did all his own research and writing; he had no law clerks or legal interns. "It was a very busy place to do business," McKinney remarked.

In 1987, President Ronald Regan nominated McKinney to be a U.S. district court judge.

In typical humble McKinney fashion, when he went to Washington, D.C., for his confirmation hearing, the trial court judge from Edinburg, Ind., didn't stay in a fancy hotel. Instead, he drove out in a trailer with his dad, wife, two kids, and his blind and diabetic dog and stayed at a KOA campground. "We had to give her shots every morning and every night, had to follow her around with a little pan to get her urine," McKinney said of his dog. "And then you'd dip the tester strip in the urine." When McKinney informed a member of one of the Indiana senator's staff that he was staying at the KOA campground she was "flabbergasted," McKinney remembered, "She said, 'I've never heard of anyone staying there.'"

Soon after his Senate confirmation, McKinney realized the power available to him at the federal court was significantly greater than what he had as a state court judge. One Friday afternoon a lawyer filed a request for a temporary restraining order involving a horse from Chile that was in Indiana for the Pan American Games. Remembering the moment, McKinney stated, "It dawned on me that instead of the power to throw somebody in jail

for failure to pay child support, or sort out a family crisis by putting the children here or there, or to sort out other domestic relations issues, in one stroke of my pen, I could have brought the whole darn Pan American Games to a halt." Ultimately, McKinney did not grant the restraining order and interfere in the games. "Fortunately, I was able to rely on my judicial philosophy, which comes from the Dolly Parton school of jurisprudence, which is, 'Don't take my man just 'cause you can,'" McKinney joked.

For the next 30 years, McKinney handled high-stakes, complex cases. He once had a 10-defendant criminal court case involving gang activity that lasted three months. There were so many defendants and lawyers in his courtroom for that trial that he had risers erected to ensure adequate seating. "That was a very interesting case," McKinney noted, adding that there were excellent lawyers on both sides.

Excellent lawyers and case complexities also dominated his civil docket. Patent disputes were among the cases McKinney particularly enjoyed. Over the years, he handled cases involving the design of tennis shoes, oxygen tanks, and much more. McKinney's expertise in patent law earned him opportunities to travel to Argentina, Chile, China, and other countries to explain America's patent and legal system to foreign lawyers and judges. Though he found patent cases interesting, McKinney's affinity for such cases had a deeper origin. As McKinney explained it: "My dad has always been my mentor; and he told me once that in order to be successful in life, you had to learn to like what everybody else didn't like, which explains my affinity for patent law."

Through his many trials, McKinney earned a reputation among the bar as a "lawyer's judge" who had high expectations for lawyers but never took the law or himself too seriously. "I think it's part of the judge's role to set a tone of civility and set a tone of relaxation in that courtroom so lawyers can concentrate on the matters of representation instead of oppressive protocol," he stated. "The dispute resolution system constitutionally created as the third branch of government needs to be respected and protected by lawyers and judges alike. This is best done, in my view, in a relaxed courtroom."

McKinney did take seriously and respected his obligation to help others. In 2007, McKinney helped launch the first re-entry court in Indiana's federal system. The court was dubbed "REACH," which stands for Re-Entry and Community Help. The program is designed to assist high-risk offenders return to society following incarceration and reduce recidivism. "We need to be increasing our efforts to ensure that these people have every chance available to do what we've asked them to do, which is be a law-abiding citizen," McKinney said. Through the work of McKinney and others, the program doubled in size and added a second REACH court in 2017. One of the REACH court graduates is an individual that McKinney once sentenced to life in prison. After his sentence was reduced, he embraced the REACH court, served as a mentor to other REACH court participants,

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holds a steady job, and was moved to tears upon hearing of McKinney's passing.

McKinney's efforts to help others were not limited to the REACH program. McKinney's dedication to public service and civil education was exemplified by his commitment to the "We the People" program, an Indiana Bar Foundation program that educates middle school and high school students about the Constitution. McKinney spent countless hours judging and volunteering his time for this program. On a separate front, McKinney also worked tirelessly with others to ensure that a new federal courthouse was constructed in Terre Haute, Ind., when the lease agreement for the former courthouse location expired. Having a federal court presence in Terre Haute was important to

McKinney, particularly given that there is a federal prison and a robust bankruptcy docket there. "Seemingly impossible obstacles were overcome" in getting a new Terre Haute courthouse built, McKinney observed.

In many ways, it seems impossible that McKinney is gone. But on Sept. 20, 2017, he suddenly was. Thankfully, his caring spirit, friendship, humor, and humility will live on in the countless people he touched. ☺

Endnote

¹The primary source for the information in this article, including quotes by Judge McKinney, is taken from the Oral History of Judge Larry J. McKinney, taken on May 4 and 9, 2009, in Indianapolis by the author.

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