



Hon. Joan N. Ericksen

Senior U.S. District Judge, District of Minnesota

by Jeya Paul



Jeya Paul is Of Counsel at the litigation boutique of Greene Espel PLLP in Minneapolis. She met Judge Ericksen when the judge presided over the naturalization ceremony at which Paul became a U.S. citizen. Paul later clerked for Judge Ericksen.

Hon. Joan N. Ericksen is the first person to have been appointed to the judiciary at each level of the Minnesota state court system (district court, court of appeals, and supreme court) as well as to the federal bench. As a federal district court judge, she has presided over 6,000 cases, issued over 20,000 orders, and sentenced more than 800 criminal defendants. When asked for a single word that describes Judge Ericksen, her former law clerks offered adjectives like “astute,” “brilliant,” “conscientious,” “compassionate,” “fair,” “exceptional,” “sharp,” and “unparalleled.” They and others who have had the good fortune to work with her in chambers observe the diligence, intelligence, and expertise with which she carries out her judicial duties. But Judge Ericksen did not start out intending to become a judge, or even a lawyer. Her trajectory is a prime example of the way in which natural talent, external circumstances, and innate interests sometimes come together fortuitously to ensure that the right person lands in the right job.

A Childhood Steeped in Academia

Judge Ericksen was born in 1954 in Minnesota’s capital city, St. Paul. But she spent much of her childhood in the small college town of Northfield, Minn. Her mother, Claire, founded and ran the Northfield Day Care Center. Her father taught math and coached golf at St. Olaf College. Judge Ericksen recalls her early years fondly. Her parents taught her to appreciate good literature. From them, and those in their circles, she also learned “the value of having a social conscience, a meaningful vocation, and a sense of humor.”

As a teenager, Judge Ericksen accumulated an eclectic set of work experiences. Her first job was processing film slides at a 3M Dynacolor plant. In that role, she got her first exposure to federal law, as she enforced the rule barring explicit pictures from being sent in the mail. One summer, she painted building exteriors as the first female hired by a national house-painting company. She later had a stint working in a corn-packing factory. During those years, she also waitressed at several different establishments.

Given the discount for professors’ children, it was



practically a foregone conclusion that Judge Ericksen would attend St. Olaf College herself. She studied psychology and political science. In her final year, she participated in a study-abroad in England. She found the experience so exhilarating that she wanted to stay another year. She succeeded in enrolling in a program at Oxford University. Her descriptions of the time sound idyllic: “walking the halls that great thinkers had frequented ... studying John Stuart Mill in cavernous stone-walled libraries ... playing percussion in a pit band for local theatrical productions ...”

On returning to Northfield, she deliberated next steps. Until that point, academia had been her world and teachers her main role models. She envisioned becoming a professor herself and started applying to Ph.D. programs. On the chance suggestion of an acquaintance, she applied to law schools as well. After whittling down her choices, she debated between a Ph.D. program in literature at Stanford University and law school at the University of Minnesota. She chose the latter. She reasoned that she could always teach with a law degree if she did not want to practice but would have fewer options if she got the doctorate and then did not want to teach.

It turned out to be the right decision. She found law school enthralling.

An Unanticipated Start as a Trial Lawyer

As someone who describes herself as “shy” as a child, becoming a trial lawyer did not immediately stand out to Judge Ericksen as a path to pursue. During law school, she had developed an interest in labor law. As graduation approached, she applied to local firms with relevant practices. At the time, in 1981, women still made up a relatively small proportion of practicing lawyers. One firm that represented labor unions interviewed her but then openly said that they could not make an offer because the men on the line would never accept a woman lawyer. Another firm made her an offer, only to rescind it soon after. Her contact sheepishly explained that, when notified, the firm’s board voted to formally bar hiring women lawyers.

She broadened her search and found employment with the LeFevre, Lefler firm in downtown Minneapolis. The firm’s clients included multiple municipalities, and the firm’s lawyers would often act as city attorneys for cities too small to employ their own. So, straight out of law school, Judge Ericksen found herself attending city council meetings as a city’s legal counsel. She also routinely acted as prosecutor for minor criminal offenses, including speeding, DWIs, and assault. Those cases often went to trial, such that in two years she had tried 12 cases to a jury and 40 to a judge. And Judge Ericksen made an unexpected discovery: she enjoyed being in a courtroom and trying cases as the government’s lawyer. So much so that when the U.S. Attorney’s Office advertised an open position, she enthusiastically applied.

Mastering Trial and Federal Practice at the U.S. Attorney’s Office

Judge Ericksen spent her most formative practice years as an assistant U.S. attorney for the District of Minnesota. Starting out in 1983 in the office’s civil division, she often litigated cases on behalf of the U.S. Postal Service or Department of Veterans Affairs. But in the case that stands out most to her from that period, *A.W.G. Farms, Inc. v. Federal Crop Insurance Corp.*, she represented the Federal Crop Insurance Corporation in a suit by 350 sugar beet farmers from the Red River Valley of Minnesota and North Dakota.¹ Incidentally, her parents came from the Valley—her mom from Grand Forks, N.D., and her dad from East Grand Forks, Minn. She had relatives in the sugar beet industry. The lengthy litigation—over insurance payment for the loss of the 1981 sugar beet crop to frost—ultimately settled. Nonetheless, it had a personal impact on Judge Ericksen, as some family members never quite forgave her for representing the government against their interests.

After a few years in the civil division, Judge Ericksen moved to the criminal division. She prosecuted a range of crimes, from drug trafficking to first-degree murder. Notably, she prosecuted the first RICO (Racketeer Influenced and Corrupt Organizations Act) case in Minnesota—*United States v. Kragness*. In obtaining a verdict against five defendants involved in a narcotics operation

touching multiple states and Mexico, the government put up 30 witnesses at trial.² That trial was one of about 25 jury trials that Judge Ericksen handled as an assistant U.S. attorney. As a prosecutor, she also developed a specialty in fraud cases of various types, including matters involving fraudulent marketing of commemorative medallions to vets (*United States v. Cheatham*); a scheme to defraud individuals investing in rare coins (*United States v. Blodgett*); and insider trading (*United States v. Poin-dexter*).³ She notes the unique challenge of fraud cases as “often they involve an element of truth that complicates parsing the unlawful conduct.”

Becoming a State Court Judge After a Return to Private Practice

After 10 years as an assistant U.S. attorney, Judge Ericksen decided to return to private practice. In 1993, she joined a firm, at the time called Leonard, Street, and Deinard, as a partner. Having to again deal with “billable hours” and “business development” after 10 years in the government required some adjustment. But after litigating a case in Wisconsin, which kept her away from home for weeks at a stretch, the most poignant challenge turned out to be work-life balance. In that case, she represented an architectural firm against claims of liability relating to a cold-storage warehouse it had designed.⁴ A massive fire had led to extensive damage, including the loss of millions of pounds of stockpiled butter that flowed into the streets of Madison. During the lengthy trial, Judge Ericksen’s three-year old son, John, would sometimes accompany her on the team’s chartered plane so that she could spend time with him. The trial ended in a win for her client, with no liability on the \$50-million claim against it. But when Judge Ericksen’s second child, Claire, was born soon after, she decided she did not want to be on the road like that again.

So, Judge Ericksen applied for a job that she knew would require minimal, if any, travel—that of a state court judge. Judge Ericksen had previously litigated a case against the then-chair of Minnesota’s judicial selection committee, a group of lawyers and community representatives that evaluates judicial candidates for positions that open between elections. On the committee’s recommendation, in 1995, Governor Arnie Carlson appointed Judge Ericksen to the district court bench in Hennepin County, Minn., the main judicial district for the city of Minneapolis. The position required rotation through different court divisions. She spent a year in criminal court. She then moved to juvenile court, which is the division that handles adoptions, delinquency, and protection matters involving children.

In juvenile court, Judge Ericksen began noticing a recurring theme in many of the cases that came before her. Time and again, she observed the devastating effects of alcohol abuse, often by pregnant mothers, on children. Deeply troubled by the problem, she joined forces with then Minnesota First Lady Susan Carlson, who also served as a judicial officer in juvenile court. Together,



Judge Ericksen with her dog, Lily.

they organized and co-chaired a statewide task force on fetal alcohol syndrome. The task force issued a report with recommendations for the state. The task force's work influenced the subsequent creation of the Minnesota Organization on Fetal Alcohol Syndrome, which continues today as the Proof Alliance.

Shaping Minnesota Law at the Appellate Level

After three years in district court, Governor Carlson appointed Judge Ericksen to the Minnesota Court of Appeals. But before she could start in that position, a vacancy came up on the Minnesota Supreme Court. The governor invited her to serve in that role instead. She accepted.

Judge Ericksen became a Minnesota Supreme Court justice in 1998. Although she still wore the same robe, her day-to-day work changed significantly. At the trial court, she had a narrower focus on individual cases and bore the weight of decisions alone. She now needed to adopt a bigger-picture perspective. She also appreciated having colleagues with whom to deliberate policy questions and jointly decide matters.

The majority opinions that she authored as a state justice covered a broad range of significant issues of Minnesota law. Those opinions include the court's finding in *Gilbertson v. Leininger* that a social host did not have a legal duty to protect an intoxicated dinner guest from harm; the court's determination in *Peterson v. O.R. Anderberg Construction* that Minnesota's workers' compensation liability law allowed equitable allocation of liability among sequential employers; and the court's clarification in *Jostens, Inc. v. Federated Mutual Insurance Company* of the standard governing when a party may pursue an interlocutory appeal in Minnesota state court.⁵ Judge Ericksen also dissented in cases dealing with weighty subjects, including the constitutionality of a provision of Minnesota's civil commitment statute (*In re Dennis Darol Linehan*) and the interpretation of statutory provisions specifying when an alleged father could

compel a blood test needed to initiate a paternity action (*Witso v. Overby*).⁶

While on the Minnesota Supreme Court, Judge Ericksen continued to devote time and energy to working on children's issues. She chaired the court's Child Protection Rules Committee and became its liaison to the Juvenile Rules Committee. She also undertook a special project to examine the way Minnesota courts handle juvenile delinquency matters, chairing the Minnesota Supreme Court Task Force on Juvenile Justices Services. In addition, she served on the board of a Minnesota non-profit, Friends of the Children Foundation, that focused on children in foster care.

Returning to Federal Court as a District Court Judge

In 2002, with a Republican in the White House and two Democrats in the Senate seats for Minnesota, a vacancy arose on the federal district court bench in Minnesota. A bitter partisan fight in 2001 over the nomination of Charles Pickering to the Fifth Circuit Court of Appeals had generated interest in identifying judicial candidates unlikely to be controversial. In that context, Senators Paul Wellstone and Mark Dayton recommended Judge Ericksen to President George W. Bush for the district court position. After the president's nomination, the Senate confirmed her, with a 99-0 vote, on April 25, 2002.

As a federal judge, Judge Ericksen has had a wide variety of litigation come before her. Of the more than 6,000 cases assigned to her by the time she took senior status in the fall of 2019, more than 75 percent have been civil lawsuits. Some have garnered media attention, especially those implicating civil rights issues. For example, in *Straights and Gays for Equality (SAGE) v. Osseo Area Schools-District No. 279*, Judge Ericksen issued an injunction against a local school district and related parties ordering that the SAGE student group receive the "same access for meetings, avenues of communication, and other miscellaneous rights" as those afforded to other student groups.⁷ In *Garcia v. Metro Gang Strike Force*, she oversaw the settlement of a civil class action by individuals subjected to egregious actions by a disbanded police task force.⁸ And in *Cooper v. Abdul-Aziz*, she granted damages to three women for their dismissal from chauffeur jobs when a Saudi prince visiting the Mayo Clinic demanded only male drivers.⁹ That decision received coverage as far away as India and Taiwan.

But thousands of civil cases that have not been spotlighted by the press have nonetheless been important to the parties involved. These have included product liability suits, business contract disputes, tax cases, intellectual property matters, and more. For example, in a trademark infringement action, *Roederer v. J. Garcia Carrion, S.A.*, Judge Ericksen issued an injunction requiring all bottles of the Spanish "Cristalino" sparkling wine sold in the United States to include a note disavowing any affiliation with the more expensive French "Cristal" champagne.¹⁰ And in *Carlson, Inc. v. IBM Corp.* she decided a dispute over a \$646 million outsourcing contract for various business

technology systems that had been terminated early.¹¹

Although her criminal cases have made up a smaller percentage of her case total, they have made for more than half of the trials in Judge Ericksen's courtroom. They have also been more likely to involve emotionally challenging facts, whether relating to a crime or a defendant's background. As just one example, in *United States v. Lindsey*, Judge Ericksen had the sensitive task of managing a jury trial of defendants on charges relating to a home invasion and robbery in which two adults and a child were killed in the presence of younger children.¹² In addition, with each of the more than 800 sentencing cases that she has done, she has had to weigh any mitigating and aggravating circumstances. Given the breadth of law and complexity of factual issues that a federal judge needs to tackle, Judge Ericksen notes that "the ability of a judge to make sense of a situation is often highly dependent on work done by the lawyers." To constantly remind herself of the important role played by lawyers, she has a sticky note at her bench that reads "Law is not shaped by judge alone, but by judge and company."

An Impact Beyond the Courtroom

During her time on the federal bench, Judge Ericksen's impact has extended far beyond the parties in her courtroom. One subject to which she has devoted considerable time and energy is the development of rules and procedures at the national and local levels. In 2005, the chief justice of the U.S. Supreme Court appointed her to the national Advisory Committee for the Rules of Evidence. During her tenure on the committee, it undertook a major restyling effort. Although rare to be appointed to two advisory committees, in 2011, she joined the Advisory Committee for Civil Rules. She served as the chair of a subcommittee looking at potential changes to Rule 30(b)(6). As an experienced trial lawyer, in committee deliberations she could address in a nuanced way which aspects of which rules impacted the litigation process. She has also taken on various roles relating to rules and related matters locally. For example, she served as the judicial liaison to the Federal Practice Committee, which is responsible for the local rules in the District of Minnesota. She also chairs the Eighth Circuit Jury Instructions Committee.

In addition to her work on children's issues in Minnesota, Judge Ericksen has continued to pursue her early interest in education. As an adjunct professor or guest lecturer at each of the local law schools, she has taught trial skills, evidence, and criminal law. An interesting outgrowth from her work on the Rules of Evidence Committee was her joining the National Conference of Bar Examiners. Starting in 2008, she served on a team of law professors and one other judge to draft questions for the multistate bar exam. She recently joined the Board of Regents for St. Olaf College.

Judge Ericksen has also had a role in encouraging the local patent-law practice. She co-founded The Honorable Jimmie V. Reyna Intellectual Property American Inn of Court. She also speaks regularly at patent law



Judge Ericksen hiking near Cusco, Peru.

CLE seminars. She has described enjoying the chance afforded by patent cases to learn about a given technology. In her office, one can find models from a few of her approximately 300 patent and other intellectual property cases—ranging from a plastic replica of the human heart to military earplugs. If she weren't a judge, Judge Ericksen now thinks she might have liked being an engineer.

The Multiplier Effect

Beyond her impact on the law and the various endeavors to which she has contributed, no account of Judge Ericksen's career would be complete without a mention of the effect she has had on her law clerks. In her time on the federal bench, over 30 law clerks have spent one or more years in her chambers. They have gone on to become various types of law practitioners.

In recollections assembled for Judge Ericksen's senior-status commemorations, many of those clerks recounted the meaningful and lasting effects of their time with Judge Ericksen. For example, Sarah Lorr, now on the Brooklyn Law School faculty, noted that her clerkship provided "[t]he opportunity to be in close proximity to a brilliant, sharp legal mind" and "almost 10 years into my career, I continue to model myself on Judge Ericksen." Several transplants to Minnesota expressed gratitude for, in the words of Holley Horrell, a litigator in private practice, "how this clerkship helped me make this community my home." A federal magistrate judge,

Elizabeth Cowan Wright, listed lessons she learned from her clerkship with Judge Ericksen, including to “[u]se judicial power carefully.” Luke Garrett, who worked as a public defender for several years after his clerkship, recalled a specific decision Judge Ericksen made at a plea hearing for a criminal defendant that “made an impression on me at the time, and my respect for the decision only grew during my years in public defense.” Another anecdote, one from private practitioner Bob Koneck, poignantly captures Judge Ericksen’s courtroom presence, along with her impact on her law clerks:

The Judge was about to sentence a man who had committed a heinous crime. He talked through tears about how he had failed those he loved and how much he regretted the pain he caused his victims. His remorse seemed real, but his crimes were horrible. Most people, including myself, would have responded to him with contempt. The Judge didn’t. She told him that his worst actions did not define him. She reminded him that he had not failed entirely as a person. She treated him with dignity when it was hard to do so. Few people would have done that. I’ll always remember the power of this act of decency.

The list of memorable moments, important lessons, and reasons for gratefulness goes on. Collectively, they show how Judge Ericksen’s influence has had and will continue to have ripple effects beyond the decisions she made in any given case.

In an interview several years after she became a federal judge, Judge Ericksen was asked about the legacy she envisioned for herself. She mentioned aspiring to replicate certain attributes of the judges who had previously held her seat on the Minnesota District Court bench and hoped for herself “overall to have done nothing to harm the reputation of the District as a place that people can come and have disputes resolved in a fair way.” She has most certainly done that—with brilliance and heart, she has carried out the judicial task of, as she describes it, “working towards justice, one human circumstance at a time.” But, as the foregoing account reflects, her legacy is so much more. Not only is she an admirable jurist, she has also made contributions to the legal and broader community that have touched the lives of many. ☺

Endnotes

¹For a description of the dispute, see *A.W.G. Farms, Inc. v. Fed. Crop Ins. Corp.*, 586 F. Supp. 690 (D. Minn. 1984).

²See *United States v. Kragness*, 830 F.2d 842, 847-48 (8th Cir. 1987).

³See *United States v. Cheatham*, 899 F.2d 747, 748-50 (8th Cir. 1990); *United States v. Blodgett*, 32 F.3d 571 (8th Cir. 1994); *United States v. Poindexter*, No. 3-92-CR-66 (D. Minn. 1993).

⁴That case proceeded to trial in Wisconsin state court. See *In re: May 3, 1991, fire at 4309 Cottage Grove Road*,

No. 91-CCV-4187 (Dane County, Wis. 1991). For some general facts about the fire, see *United States v. Crown Equip. Corp.*, 86 F.3d 700 (7th Cir. 1996).

⁵*Gilbertson v. Leininger*, 599 N.W.2d 127 (Minn. 1999); *Peterson v. O.R. Anderberg Const.*, 586 N.W.2d 269 (Minn. 1998); *Jostens, Inc. v. Federated Mut. Ins. Co.*, 612 N.W.2d 878 (Minn. 2000).

⁶*In re Linehan*, 594 N.W.2d 867, 885-87 (Minn. 1999); *Witso v. Overby*, 627 N.W.2d 63, 69-74 (Minn. 2001).

⁷*Straights and Gays for Equality v. Osseo Area Schs.*, No. 05-2100, 2007 WL 2885810 (D. Minn. Sept. 25, 2007).

⁸*Garcia v. Metro Gang Strike Force*, No. 09-1996, 2012 WL 3839243 (D. Minn. Sept. 4, 2012).

⁹*Cooper v. Abdul-Aziz*, No. 12-2422, 2015 WL 12552064 (D. Minn. Nov. 4, 2015).

¹⁰*Roederer v. J. Garcia Carrion, S.A.*, 732 F. Supp. 2d 836 (D. Minn. 2010).

¹¹*Carlson, Inc. v. IBM Corp.*, No. 10-3410, 2014 WL 3700894 (D. Minn. July 25, 2014).

¹²*United States v. Lindsey*, No. 10-15, 2014 WL 4113011 (D. Minn. Aug. 20, 2014).