

The Storied Third Branch

A Rich Tradition of Honorable Service Seen Through the Eyes of Judges

NOVEMBER 2012

CENTER FOR JUDICIAL STUDIES
DUKE LAW

Circuit Judge Eugene A. Wright “A Judge’s Judge”

By Richard C. Tallman
Circuit Judge, U.S. Court of Appeals for the Ninth Circuit

On September 24, 1969, the judges of the United States Court of Appeals for the Ninth Circuit convened at the U.S. Courthouse in Seattle for a special session: the investiture of Judge Eugene A. Wright. Locally, the occasion was bittersweet; the Washington state bar was giving away one of its own, and one of its best at that. Judge Wright had served as a respected practitioner and state court judge for 12 years, and he had been, as local attorney William H. Gates, Sr., said at the time, “the most active and effective member of the organized bar.”

The Ninth Circuit understood the caliber of jurist and the man it was admitting into its limited ranks. As the late Judge Frederick G. Hamley welcomed his new colleague to the Court, he said, “The work is heavy and the responsibility is great but Judge Wright comes to the court with a learning and experience and good judgment which will make a great contribution . . . and . . . he will add luster to the Court of Appeals.”

Judge Wright would serve on the nation’s largest appellate court for 33 years. He would become known as one of the finest writers our circuit has known and a consummate professional never too busy to lend his advice to anyone who sought him out. He would also become an innovator in judicial training and education, after Supreme Court Justice Tom Clark tapped him to assist in the founding of the National Judicial College in Reno (where he taught for many years).

Thankfully for the Republic, young Gene Wright did not always listen to his father. Elias Wright, a respected Seattle attorney himself, disapproved when his son enrolled in ROTC at the University of Washington. Many years later—after Judge Wright had distinguished himself on active duty by serving as a valuable linguist to Japanese-American soldiers taken prisoner in the Pacific Theater, where he had also overseen the translation of captured Japanese documents, and after he rose to the rank of Colonel and was awarded the Bronze Star—he remarked of his father, “In retrospect, I think he was wrong.”

Judge Wright later recalled that his military service trained him for leadership—an attribute of judging that he thought just as important as decisiveness, courage, integrity, educability (that crucial willingness to listen and learn from lawyers and witnesses), and courtesy. Those experiences laid the foundation that shaped his judicial philosophy.

On that note, we are even more blessed that Judge Wright did not find persuasive his father’s objections to his career path. Judge Wright defined the meaning of the descriptor “active” as a Circuit Judge from the very beginning of his work on our court. He ultimately served as a member of 4,272 three-judge appellate panels. He authored 737 published opinions, spanning an equal number of volumes of the Federal Reporter, and he did not waste a single word. His first published opinion, *Meadows v. United States*, upheld a firearms conviction in 1969 and was only four pages in length. His last, *United States v. Benboe*, reversed a firearms conviction in 1998 and was but five pages long. As one of his former law clerks attested, “He did not like unnecessary words.” As judges, we would marvel at his ability to take complicated subjects and reduce them to simple, understandable legal opinions. Three semesters of journalism classes had shaped the judge’s taciturn style: “Journalism,” he said, “teaches one to write fluently, clearly and concisely.”

When he dictated his oral history, Judge Wright particularly remembered four cases as significant. In *U.S. v. Zemek* he authored the opinion that affirmed the racketeering convictions of several Washington men involved in organized crime seeking to monopolize the topless tavern businesses surrounding a large military base. They did so through extortion, arson, the attempted murder of a state liquor control board supervisor, bribery of the local sheriff, prostitution, and gambling violations—the first RICO case filed in the State. In *Adamson v. Ricketts* he wrote the opinion that upheld the death penalty conviction of the man whose car bomb killed Don Bolles, an Arizona investigative reporter covering organized crime. In

U.S. v. Wayte his opinion for the court upheld Presidential Proclamation 4771, Jimmy Carter's 1980 directive requiring male citizens born after 1960 to register for the draft. And in *Fraser v. Bethel School District* Judge Wright dissented from the majority's view that a school could not suspend a student who gave a sexually suggestive speech at a school assembly. When the Supreme Court adopted his view a year later, it came as little surprise. In the 13 times his cases went before the Supreme Court, the Court upheld his view or found it persuasive in nine. Any judge would take that batting average.

Judge Wright never sought to distance himself by his position on the appellate bench from the attorneys who practiced before him. He was equally comfortable working out with them at the Washington Athletic Club. His door was always open to anyone seeking career advice. He felt a personal obligation to help lawyers and judges improve. He was revered for his willingness to lend his advice, even if it sometimes came bluntly. In the early 1980s, while serving as an Assistant U.S. Attorney, I received a cryptic typewritten note, stapled to a copy of his published slip opinion. It read: "Dick, We covered you this time but don't let it happen again. EAW."

Judge Wright's chambers served as the model of efficiency. If Rome wasn't built in a day, his wife, Esther, would say, it was because Judge Wright wasn't in charge of the construction. He closely tracked the turnaround times of the judges on the Ninth Circuit in circulating draft opinions, and he made it a priority that his chambers never relinquished the top spot. It was not unusual for the other judges on our circuit to turn to him for advice on how to establish such a well-oiled machine. One way: hire the best staff. Judge Wright always had the most helpful and well-trained judicial assistants and law clerks, who were highly sought after in the legal community upon completion of their clerkship with him.

If I had to pick attributes of Judge Wright that I most admire, it was his unfailing efforts in the 34 years I knew him to improve the quality of our work and to build morale among his colleagues, to encourage the development of young lawyers, to improve training for judges, and to maintain his friendships through oral or written communications commending their individual achievements.

On November 19, 2002, the judges of the Ninth Circuit again convened in Seattle for a special session, this time to honor the memory of Judge Wright, who had died at the age of 87 only two months earlier. With Judge Wright's friends, family,

former law clerks, and colleagues in attendance, we recounted those values that made Judge Wright a man larger than life.

The eulogies delivered on that occasion, and published at 333 F.3d xxvii, confirmed the words spoken 33 years earlier in the same courtroom. Circuit Judge Eugene A. Wright surely added luster to our court through his decades of public service to the Nation. He was a judge's judge.