

## IN CELEBRATION OF LARRY MCKINNEY AND DENISE LARUE

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Make no mistake that the deaths of Magistrate Judge Denise LaRue and Senior Judge Larry McKinney have left a deep and widespread sense of loss inside the legal profession and beyond.

Both of them have been heroes to their fellow professionals. The extraordinary caliber of their service to their fellow citizens has been a demonstration of the importance of identifying and recruiting the best possible servant leaders for judicial work.

Denise LaRue died at the beginning of August 2017, about six years after taking the oath as a Magistrate Judge for the federal courts in central and southern Indiana.

She was a genuine trailblazer. LaRue was one of the first African-American women to become a name partner in a law firm in central Indiana.<sup>1</sup> And she was the first African-American to become a Magistrate Judge in the Southern District. Her field during her years of practice had been employment law, and she helped clients with everything from wage and hour disputes, to violations of free speech or political association rights, to constitutional claims. This experience placed her superbly for resolving so many of the District Court's cases under statutes like the Americans with Disabilities Act and the Family and Medical Leave Act.

Denise LaRue possessed just the sort of intellectual firepower we would all hope to find in people entrusted with making judicial decisions, but she was also known for careful attention to the needs of the people who appeared before her. Chief Judge Jane Magnus-Stinson got it right in highlighting her "compassionate insight into the problems faced by litigants . . . She had an unparalleled ability to identify their concerns, some of which had less to do with the law than with their personal circumstances."<sup>2</sup> There was "no pretense about her," said fellow Magistrate Judge Tim Baker.<sup>3</sup>

Her loss was very much still on our minds when the shocking news arrived that Larry McKinney had died toward the end of September.<sup>4</sup>

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1. See Press Release, Laura A. Briggs, Clerk, Southern District of Indiana Mourns the death of Magistrate Judge Denise K. LaRue (Aug. 3, 2017), <http://www.insd.uscourts.gov/sites/insd/files/DKL%20announcement.pdf> [<https://perma.cc/XQA5-N7CP>]; Marilyn Odendahl, *LaRue leaves legacy of compassion and grace*, IND. LAW. (Aug. 9, 2017), <https://www.theindianalawyer.com/articles/44457-larues-legacy-compassion-and-grace> [<https://perma.cc/33SF-25ZD>].

2. Odendahl, *supra* note 1.

3. *Id.*

4. See Press Release, Laura A. Briggs, Clerk, Southern District of Indiana Grieves the Loss of Senior Judge Larry J. McKinney (Sept. 22, 2017), <http://www.insd.uscourts.gov/sites/insd/files/LJM%20long%20announcement.pdf> [<https://perma.cc/5BBW-JTD6>] [hereinafter McKinney Press Release].

Chief public defender Monica Foster called McKinney “a stern judge” who expected lawyers to know well both the cases they were handling and the law that applied, but she also recalled his commitment to fostering a creative atmosphere among judges and lawyers.<sup>5</sup>

This approach was visible, indeed measureable, during the earliest days of McKinney’s judicial career. In the era that covered the eight years Larry McKinney served as Judge of the Johnson Circuit Court, venue rules allowed lawyers to vote with their feet by authorizing an automatic change of venue from the county where a case was first filed. In theory, such movement was aimed at fostering untainted juries, but in practice, a great many changes were motivated by a desire to appear in front of a different judge. Year after year, the Johnson Circuit Court, well, really Larry McKinney, was a venue that experienced a substantial inflow of cases from other locales.

Judge McKinney somehow carried out all of his assignments with an air of affability – no, genuine humor – that was appreciated by all. When outside the presence of jurors or litigants, for example, he sometimes regaled his fellow professionals with what Monica Foster called “hysterical imitations.”<sup>6</sup> “He was one of a kind,” said Tim Baker.<sup>7</sup>

Well, yes, whenever you saw Larry McKinney, you were always glad to see him. That was as true for young people as it was for legal professionals. Judge McKinney was a “passionate supporter” of the We the People program, declared the Indiana Bar Foundation’s director Chuck Dunlap.<sup>8</sup> Larry McKinney always looked forward, committed to building a better society by preparing tomorrow’s leaders.

Inside the profession, he worked to help brand new lawyers through the American Inns of Court. Resting on the British model of legal education, the American Inns seek to build ethics, civility, and excellence through practice programs and mentoring that join senior practitioners with law students and new members of the bar.<sup>9</sup>

Larry McKinney was the founding president of the Indianapolis American Inn of Court. His contributions were legion, but the most memorable were Inn programs styled as “Legal Jeopardy.” Larry served as the emcee for his team, and we all went home at the end of the evening feeling better educated and happy about what we did for a living.

Of course, Denise LaRue held this same mission in her heart. Like Judge

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5. Marilyn Odendahl, *McKinney remembered for intelligence, sense of humor*, IND. LAW. (Sept. 21, 2017), <https://www.theindianalawyer.com/articles/44902-judge-mckinney-remembered-for-intelligence-and-sense-of-humor> [<https://perma.cc/9P7G-9GUE>].

6. *Id.*

7. *Id.*

8. *Id.*

9. *What is an American Inn of Court?*, AM. INN OF COURT, [http://home.innsofcourt.org/AIC/About\\_Us/What\\_Is\\_an\\_American\\_Inn\\_of\\_Court/AIC/AIC\\_About\\_Us/What\\_Is\\_An\\_American\\_Inn\\_of\\_Court.aspx?hkey=d3aa9ba2-459a-4bab-aeec8-f8faca2bfa0f](http://home.innsofcourt.org/AIC/About_Us/What_Is_an_American_Inn_of_Court/AIC/AIC_About_Us/What_Is_An_American_Inn_of_Court.aspx?hkey=d3aa9ba2-459a-4bab-aeec8-f8faca2bfa0f) [<https://perma.cc/6GLR-RPCZ?type=image>] (last visited Nov. 27, 2017).

McKinney, Magistrate Judge LaRue served as president of the Indianapolis Inn, her term ending just before her death.

Judges LaRue and McKinney have passed at a moment in the nation's history when selecting judges is the topic of more than a little dispute. The federal selection process has been growing more contentious from the 1970's through the nominations of Merrick Garland and Neil Gorsuch.<sup>10</sup> The friction between Presidents Obama and Trump and their Senate opponents has been intense.

Larry McKinney and Denise LaRue are examples of how well the public is served when the decision-makers collaborate on lifting up the highest quality people. Their ability to recruit the best is hardly just a matter of pride of accomplishment. It makes a great difference and respects one of the pillars that sustains the country: building on the rule of law.

An old saying is that "courts have no power, only authority." By this is meant that judges do not have armies or taxing power at their disposal, only the power of thoughtful and impartial decisions to prompt people to follow their rulings.

That means that judges must commit to careful attention for individual litigants, work to understand the laws they are charged with upholding, and stand firmly for the highest ethical standards. When we manage to make that happen, people generally accept the outcomes, even when they disagree with the rulings.

When most Americans go to court, they don't see state or federal supreme court justices. They find themselves in front of state or federal trial judges. There is every reason to believe that Senators Todd Young and Joe Donnelly, and our District Court judges, who play such crucial roles in the decisions about who should hold judicial office, are engaged in careful and collaborative work toward the best selections.

We will be a stronger country for it.

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10. SARAH A. BINDER & FORREST MALTZMAN, *ADVICE & DISSENT: THE STRUGGLE TO SHAPE THE FEDERAL JUDICIARY* 1-14 (2009); Veronica Stracqualursi, *After historic rule change, Senate confirms Neil Gorsuch to Supreme Court*, ABC NEWS (Apr. 7, 2017, 12:58 PM), <http://abcnews.go.com/Politics/senate-vote-supreme-court-nominee-neil-gorsuch-today/story?id=46629296> [<https://perma.cc/V443-3Y9P>].