1993

A True Success Story

D. D. Wozniak

Follow this and additional works at: http://open.mitchellhamline.edu/wmlr

Recommended Citation
Available at: http://open.mitchellhamline.edu/wmlr/vol19/iss3/3
A TRUE SUCCESS STORY

THE HONORABLE D.D. WOZNIAK†

In 1983, the Minnesota Legislature charged the newly formed court of appeals with the overriding objective of providing Minnesota's citizens with an efficient, inexpensive, and meaningful appeal process. This charge was consistent with Prime Minister William E. Gladstone's remark that "justice delayed is justice denied."

The court of appeals formed at a critical juncture in judicial history when the right to appeal existed in theory but, in practice, was merely an empty promise because of the overburdened Minnesota Supreme Court. When I became chief judge, following former Chief Justice Peter Popovich, I became acutely aware of my responsibilities.

The Minnesota Court of Appeals is different from any other court in that it must handle every appeal that is filed. Thus, I recognized, as did Chief Justice Popovich, that our court filings must be disposed of at a rate at least equal to the rate of new cases entering the system. Otherwise, a backlog would eventually develop. Each year we have done so. Even though there have been in excess of 21,451 filings since the court's existence, the Minnesota Court of Appeals has no backlog—a claim that only one other state judiciary can make.1 Few state agencies have succeeded so completely in fulfilling their charges as the court of appeals. With the current budget crunch, the judges will have to do more with less.

The remarkable performance of the court is made possible by the abilities, commitment, and hard work of its judges and

† Former Chief Judge, Minnesota Court of Appeals; B.A. 1943, cum laude, College of St. Thomas; J.D. 1948, University of Minnesota Law School.

I want to thank Governor Perpich, not only for giving me the chance to serve as an appellate judge, but also to serve as chief judge for five of the Minnesota Court of Appeals' nine years of existence. I also want to thank Minnesota's former governor for providing me with the opportunity to play an integral part in the molding and forming of a highly successful court.

1. Arthur S. Hayes, Minnesota Court Eliminates Case Backlog, WALL ST. J., June 8, 1992, at B1. (stating that the Georgia Court of Appeals is the only other appellate court without a backlog).
staff, the deep commitment of the court to aggressive case management, and the use of a comprehensive automated record-keeping system which tracks the progress of each case to ensure its timely disposition. Further, the Minnesota Court of Appeals is highly productive. Every year each judge authors over 100 written opinions (approximately two per week); each judge issues all decisions within ninety days of hearing; and each judge participates in over three hundred oral and nonoral hearings, with all panel members participating in, reviewing, and conferring on the decision.

Every year during my tenure, the legislature asked what steps I had taken and what steps I planned to take to ease the burdens on the courts and on the budget. I told the legislature of my many educational efforts for the bar and trial judges. These efforts included:

1. Suggestion sheets;
2. An improved case filing system;
3. Utilization of sanctions for repeated nonjurisdictional errors of attorneys which waste our limited resources;
4. Cooperating with Finance and Commerce to set up a system for easier digestion of both published and unpublished opinions; and
5. A variety of written treatises, articles, and texts. 2

Our system of justice also enjoys an abundance of other ideas for improvement. However, the unfinished agenda of improvement, particularly for trial courts, remains extensive. These ideas deserve renewed dedication in the 1990s. Specifically, state judiciaries deserve resources commensurate with their responsibility for justice.

Courts need to be accessible to all persons, and cases need

---

2. D.D. Wozniak & Cynthia L. Lehr, Dealing with a Double-edged Sword: A Practical Guide to Contempt Law in Minnesota, 18 WM. MITCHELL L. REV. 7 (1992); D.D. Wozniak & Cynthia L. Lehr, Avoiding Practice Errors Before the Minnesota Court of Appeals, 13 HAMLINE L. REV. 1 (1990); D.D. Wozniak et al., Common Errors in Appellate Practice, 13 MINN. TRIAL LAWYER 2, 17 (1988); SPECIAL R. OF PRAC. FOR THE MINN. CT. APP., reprinted in MINNESOTA RULES OF COURT, 423-26 (West 1993); Minnesota Court of Appeals, Style Manual (July 31, 1992); Minnesota Court of Appeals, Marshaling Manual, (July 1992); Minnesota Court of Appeals, Standards of Review, FINANCE & COMMERCE, June 12, 1992, at C1; Minnesota Court of Appeals, Special Term Opinion Subject Matter Index (Mar. 24, 1992); Minnesota Court of Appeals, Court Reporter Checklist for Appellate Transcripts (Feb. 14, 1991); Minnesota Court of Appeals, Suggestions for Appellate Practice Before the Court (Feb. 1, 1992); Minnesota Court of Appeals, How to Judge a Judgment—An Overview for Court Administrators of Issues Affecting Appeals (Feb. 15, 1989); Minnesota Court of Appeals, Law Clerks’ Manual (Aug. 3, 1987).
to be adjudicated expeditiously, whether by trial or by some other judicially sanctioned process. Judges and nonjudicial personnel need to receive continuing education to strengthen their skills. Overall, courts need to operate in an environment that is dignified, secure, efficient, and accommodating to participants in the judicial process.

Enlightened techniques, reinforced by reliable management information and the latest technology, should govern the administration of court affairs. Judges and other court personnel should serve parties, jurors, witnesses, victims, and counsel with dedication and should share accountability to the community they serve. Justice must be both perceived and achieved. Supreme Court Justice Sandra Day O’Connor set the tone for all of us when she said:

What we do today to shape our courts and to shape the principles by which we manage them will determine how they perform their vital role in the future. . . . We need to promote the concept of management as a noble calling. Both the art and the science of management are essential ingredients in ensuring the administration of justice.3

Another important and obviously sensitive issue to some is the role of attorneys in controlling (or not controlling) court delay and congestion. In these cases, courts, rather than attorneys, need to control their flow. In other words, the courts need to enforce existing rules rather than afford attorneys greater flexibility.

It is inappropriate to rely on the old saw that judges should judge and managers should manage. Both need to have a better understanding of the other’s role. Judges should be provided with continuing education courses which focus on the development of managerial skills. However, judges should also be educated as to the importance of management, the competence of managers, and the luxury of being a judge. In other words, judges must be of the mindset needed to rely on the management skills of their court administrators.

The leadership of the courts must take a more proactive role in informing the public and the media about how the court operates. The need for information about the court’s role and the function it serves as an independent, accountable branch of

---

government has never been greater. Increased public demand for governmental accountability, competition for scarce resources, and legislative scrutiny of the judicial branch together make this program a must, if improvement of the court’s image and relationship with the public is a concern. If there is one thing I have learned, it is that there are too many caring, well-trained, and hard-working judges to allow the public to be deceived into thinking that Minnesota has anything but a first-rate judiciary.

I will conclude in a somewhat philosophical manner. In 1989, we celebrated the bicentennial of the United States Constitution. I have had the unique experience of visiting every country behind the Iron Curtain at a time when Communism controlled. All of the totalitarian governments had and have similar charters filled with high-sounding platitudes about liberty, democracy, and rights of the people. But these are empty and meaningless phrases because there are no independent judiciaries to give the words meaning and substance. The judiciary in this country is indispensable to our democracy and our system of balancing order with liberty, and I am proud to be part of that system.

The rule of law is part of a long western tradition to which we are heirs. Some two thousand years ago, for example, Cicero, the great statesman of the ancient Roman Republic, observed that “We are in bondage to the law in order that we may be free.” Today, the rule of law is still the very fundament of our civilization, and the American Constitution remains its crowning glory. We can do no better than to recall Daniel Webster’s words:

Miracles do not cluster. Hold on to the Constitution of the United States of America and the Republic for which it stands—what has happened once in six thousand years may never happen again. Hold on to your Constitution, for if the American Constitution shall fall, there will be anarchy throughout the world.4

4. 15 THE WRITINGS AND SPEECHES OF DANIEL WEBSTER 520 (1903).