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Tribute to Justice Rosalie Wahl

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2014]

TRIBUTE TO JUSTICE ROSALIE E. WAHL

Honorable Donovan W. Frank[†]

Honorable Associate Justice Rosalie E. Wahl: How can I begin to describe this extraordinary human being who was the change that she wanted to see in the world? As many of you know, when Rosalie graduated from law school, she was hired by then-Chief State Public Defender C. Paul Jones to represent indigent criminal appellants. While at the public defender's office she quickly developed a reputation for being a tireless and zealous advocate for the defense of human rights for persons of color—and really all criminal defendants—as well as a beacon of hope for women. She worked at the public defender's office for six years—from 1967 to 1973. Rosalie argued more than 100 cases before the Minnesota Supreme Court while at the public defender's office. C. Paul Jones said Rosalie was a superb lawyer.

“When she was talking with her client, she had an aura that commanded respect,” he said. “She was very articulate in presenting a case. Not all [lawyers] are stars. Justice Wahl was a star and still is.”

During those six years with the public defender's office, from the very beginning, while Rosalie remained a zealous advocate, her guiding principle each day, to quote Rosalie herself, was: “I shall continue to be guided by those ‘values which were sprouted by the hearth—a sense that every individual in the human family is a unique and precious being, a sense of justice and fair play, a sense of compassion where justice ends or fails.’”⁴

However, that does not mean that she was not outspoken while she was with the public defender's office. A transcript will reveal that while still at the public defender's office, at one point, during oral argument before the Minnesota Supreme Court, Rosalie became dismayed by some of the questions from the justices and declared: “I can't believe this court agrees with the proposition that only the innocent are entitled to a fair trial.”⁵

† United States District Judge for the District of Minnesota.

4. Rosalie E. Wahl, Assoc. Justice, Minn. Supreme Court, Remarks at the Hamline University Putnam Lecture: Equal Justice Under Law: Dream or Reality? (Mar. 9, 1978), in 2 *HAMLIN L. REV.* 1, 13–14 (1979) (quoting Wahl, *supra* note 2).

5. Gwyneth Jones, *Justice Is a Woman*, *BENCH & B. MINN.*, Aug. 1994, at 25, 26.

In 1973 Rosalie moved from the public defender's office to start, along with Professor Roger Haydock, a criminal-clinical program at William Mitchell College of Law. If you talk to anyone who was a clinical student during that time, they will say the same thing. At the end of a day, Rosalie would take the students aside and say: "Please be more positive and extend a kind and caring hand to these defendants who are here under difficult circumstances. Be zealous, but professional, in all ways to the court and those around you."

Racial Bias Task Force

During her tenure as the first female justice on the Minnesota Supreme Court, Justice Wahl became the chair of the newly created Minnesota Supreme Court Task Force on Racial Bias in the Judicial System, to which I was appointed a member. Imagine, there I was, a young, impressionable, new state court judge in the mid-1980s having been given the privilege of serving on this task force and meeting Justice Wahl for only the second or third time—the first time was in the early 1980s as a young prosecutor arguing my first case before the Minnesota Supreme Court. As a member of the task force, I remember, almost like it was yesterday, Justice Wahl taking me aside and saying: "You listen with this" (pointing to her heart), "with the assistance of this" (pointing to her brain).

That is exactly how the task force was run, both in private meetings and in public forums—always with fairness, sensitivity, and honesty because, in everything we did, she expected that we would restore faith in the justice system to those people who had the least amount of trust, confidence, and faith in the system—namely, the poor and communities of color. Her words at every meeting were consistent with her preface to the final report published in May 1993: "This cannot be 'just another study.' People trusted us enough to come and make their feelings known. We who are the stewards of the justice system cannot fail the people that it belongs to."⁶

6. MINN. SUPREME COURT TASK FORCE ON RACIAL BIAS IN THE JUDICIAL SYS., FINAL REPORT, at xiii (May 1993) [hereinafter RACIAL BIAS FINAL REPORT], available at http://www.mncourts.gov/documents/0/Public/Court_Information_Office/Race_Bias_Report_Complete.pdf.

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She then concluded her introductory remarks in the preface—as only Rosalie could do, because that is how she lived each day of her life—by stating, “This we vow: that we will not cease our efforts until this court system, of which we are so proudly a part, treats every person equally before the law—and with dignity and respect—regardless of such irrelevancies as race or gender or class.”⁷

This zealous beacon of hope, who demanded compassion, care, and zealous representation for every defendant accused of a crime and demanded with such humility and sensitivity equal justice and equal access to justice for those who had so often disproportionately gone without, stated: “I think the law should have a human face. Everything we do affects people; it doesn’t become a dry bunch of words in books on the shelf.”⁸

We owe so very much to Rosalie Wahl for everything that she did, for the way she lived, and for the way she will be remembered. She left the criminal justice system, our communities—especially our communities of color—and the poor much better than she found them.

In the words of George Bernard Shaw, Rosalie, you have handed each of us a splendid torch for equal justice and equal access to justice that we each promise, as you did, to keep burning brightly, not just for ourselves, but for future generations. I leave you with the words of George Bernard Shaw, which so eloquently describe her Honor, Justice Rosalie E. Wahl—mother, lawyer, zealous public defender, advocate for the poor, advocate for people of color, advocate for all criminal defendants, and advocate for us all:

This is the true joy in life, the being used for a purpose recognized by yourself as a mighty one; . . . the being a force of Nature instead of a feverish selfish little clod of ailments and grievances complaining⁹ that the world will not devote itself to making you happy.

7. *Id.*

8. See 183 CONG. REC. E2205 (daily ed. Nov. 17, 1995), available at <http://www.gpo.gov/fdsys/pkg/CREC-1995-11-17/pdf/CREC-1995-11-17-pt2-PgE2204-3.pdf> (statement of Rep. Jim Ramstad).

9. See Letter from George Bernard Shaw to Arthur Bingham Walkley, in *GEORGE BERNARD SHAW, MAN AND SUPERMAN*, at xxxi–xxxii (1903).

I am of the opinion that my life belongs to the whole community, and as long as I live it is my privilege to do for it whatsoever I can.

I want to be thoroughly used up when I die, for the harder I work, the more I live. I rejoice in life for its own sake. Life is no "brief candle" for me. It is a sort of splendid torch, which I have got hold of for the moment; and I want to make it burn as brightly as possible before handing it on to future generations.¹⁰

Thank you, Rosalie. Your splendid torch has been passed, and we promise that it will continue to burn brightly.

10. ARCHIBALD HENDERSON, *GEORGE BERNARD SHAW: HIS LIFE AND WORKS* 511–12 (1911).