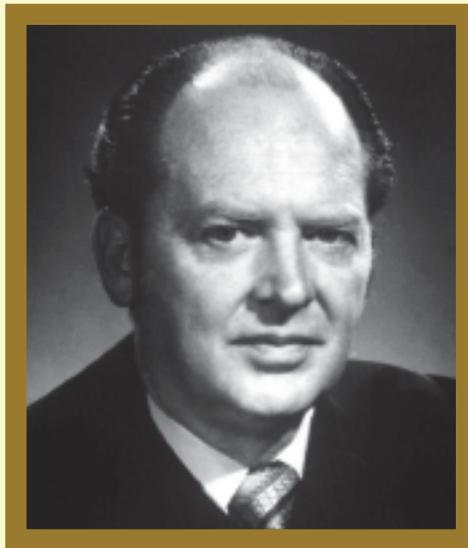


JUDGE FRANK J. MCGARR:
in Memoriam

*By Joseph Strubbe**



Black's Law Dictionary defines "Judge" as "the chief member of a court, charged with the control of proceedings and the decision of questions of law or discretion." With respect to all members of the bench, perhaps no one has better completed the definition than Judge Frank J. McGarr.

The record will reflect that Judge Frank J. McGarr passed away at age 90 on January 6, 2012. He served on the U.S. District Court for the Northern District of Illinois from 1970 to 1988, as Chief Judge from 1981 until 1986. Judge McGarr was universally regarded as one of the best trial judges to ever take the bench in the Northern District. Judge McGarr possessed the perfect demeanor for the bench; smart, always calm and measured, respectful, never dismissive, and fair in his administration of justice. At his core, Judge McGarr was an incredibly decent man, an overarching trait reflected in his every action.

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What can't be adequately captured or measured in any biographical accounting of Judge McGarr is the indelible mark left by this great jurist on a freshly minted attorney. I was privileged to have served as one of Judge McGarr's law clerks from 1985 to 1987, and to have worked with him from 1990 to 1996 at the former Phelan, Pope and John law firm, where he practiced after leaving the bench.

The perspective afforded by passage of time teaches that all of Judge McGarr's stellar qualities were a byproduct of his inherent humility. Judge McGarr never saw himself above others in his courtroom or on his staff. As a green law clerk, I was astonished by his patience and willingness to consider, despite his far superior experience and knowledge of the law, my own attempts to administer justice. Judge McGarr relished our spirited discussions regarding pending motions, and was genuinely willing to consider an evaluation that differed from his own. His patient demeanor encouraged confidence, and taught empathy, which I hope guides my practice to this day. I will never forget the first time that I was able to persuade Judge McGarr as to the outcome of a motion contrary to his initial take, nor will I forget Judge McGarr's sense of humor, and the comfort of debate which it engendered. After one particular lengthy exchange on the merits of a motion to dismiss, in which I failed to persuade Judge McGarr of my viewpoint, he reminded me, with a knowing smile, that if the decision were reversed on appeal, it would count toward his record, not mine.

Judge McGarr's mentoring and encouragement was not reserved for his staff. He was kind with all attorneys in his courtroom, while never allowing any litigant to forget the underlying gravity of the proceedings there. As with his staff, Judge McGarr expected litigants to be prepared and accountable and yet, in reminding those who were not, never lost his temper and never demeaned. Judge McGarr's patience in dealing with a pro se criminal defendant, the first, we were told, successful escapee from the Metropolitan Correctional Center, was illuminating. At trial,

this jailhouse lawyer attempted to establish his innocence of the escape charges based on his temporary insanity. Despite obvious shortcomings in the defendant's theory, knowledge of rules of evidence and of courtroom proceedings, Judge McGarr gently guided him through a several day trial. After the jury had announced its guilty verdict, Judge McGarr told the defendant that he had exhibited intelligence and potential which mandated a higher calling in life, and that he would have been a good lawyer. Judge McGarr encouraged him to use his now lengthened prison sentence to better himself in his education, to make more of his life upon his release. The sincerity of Judge McGarr's remarks was obvious to all who heard them.

Judge McGarr's humility, and loyalty, shone through in countless other ways. Eschewing law clerk candidates from other law schools, Judge McGarr instead selected all of his clerks from either Loyola, where he obtained his law degree in 1950, or IIT Chicago-Kent. Judge McGarr's loyalty was returned. Each year, we former law clerks would gather with Judge McGarr for a celebratory dinner, telling, and embellishing, the same old stories amid peals of laughter. Presiding over the affair was Judge McGarr, a kind, smiling father figure, who cared about each and every one of us and our families and our careers, and who influenced us in countless ways.

No perspective of Judge McGarr's life would be complete without mention of his incredible faith, and his undying love for his family, including his "bride" Margaret. He proudly exhibited many photos of his family in his chambers. My favorite perhaps best captures his love for his family and his simple, humble nature: A beaming Judge McGarr in worn bib overalls, standing in front of his barn at his farm retreat in Wisconsin, surrounded by his grandchildren.