Austin L. Staley - An Appreciation

William H. Hastie

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As judges, Austin Staley and I have grown up together. Eighteen years ago, at about the same time, we came to the bench of the United States Court of Appeals for the Third Circuit. We have been colleagues ever since. This has meant continuing close association in and shared responsibility for the decision of thousands of cases, affecting the interests large and small of uncounted litigants. In the long course of such association men learn each other’s measure, professionally and, more broadly, as human beings. And when, as in the case of Judge Staley, so much that is admirable is revealed, it becomes a happy privilege to write of the judge and the man as he has disclosed himself to his colleagues.

A judge must be viewed in the institutional setting of the court of which he is a member. Ours is a multi-judge appellate court. We were seven when Judge Staley and I came to the bench and our number was increased to eight some years later. On occasion, all eight of us sit en banc. And even when only three of us sit as a hearing division, our practice of inviting the non-sitting members of the court to comment critically upon each proposed decision before its promulgation permits significant participation of all in the process of decision. Thus, in every case that comes before us, each judge enjoys and is obligated to exercise independent judgment in determining what result in his view is just and is legally proper. Yet, in each case the end result must be a single decision of the court, a consensus of a majority of its participating members.

In these circumstances the effort to achieve judicial consensus can be as difficult as the larger and more publicized search for consensus in the legislative area. For judges are likely to be strong-minded and self-willed men, each with a measure of confidence in his own legal understanding, reasoning and judgment. And all members of a court are equals, no one beholden to any other. Moreover, the life tenure of federal judges is designed to support independence of judgment and does so. Thus, there is

* Chief Judge of the United States Court of Appeals for the Third Circuit.
danger that the search for judicial consensus in difficult and complex cases pile exacerbation upon exasperation to the detriment of the judicial process, not to mention the distress of the judicial processors.

Judge Staley's presence on the bench and at the conference table is vastly helpful in making this process of deciding work effectively and smoothly. Though his convictions are strong and he has genuine confidence in his own judgment, his constant disposition is that judges in search for consensus shall reason together, for debate and discussion are the way to consensus. But that way can be treacherous. The caustic judge, the judge who is intolerant of views different from his own and the inflexible judge who can never be persuaded that his first impression was a mistaken one impedes the achievement of the wisest decision that can be distilled from the collective wisdom of the membership of a court. Knowing this, Judge Staley has always been a powerful influence toward the harmonious achievement of a wise consensus. His views are presented clearly and positively, but modestly. His respect for the views of colleagues contrary to his own is made manifest in what he says and the way he says it. Thus, he often can persuade but never overpowers or offends. He supplies light without generating heat.

A chief judge moving his court toward decision must be both a capable protagonist and an effective moderator. To combine these all but contradictory roles is very difficult. But Austin Staley has shown that it can be done and well done.

To be Judge Staley's colleague is to know another quality of his mind. His human interest and his intellectual curiosity encompass many disparate fields. Such diversities as patent law, labor law, maritime law, civil rights and procedural law vary in their professional appeal. Some lawyers specialize in one field, others master another. But Judge Staley explores legal problems with enthusiasm, zeal and high competency whether their technical incidence is in one area of the law or in another. The wise and just resolution of litigated disputes of men living in our confused and often confusing times is his comprehensive field of interest. And his widely ranging opinions attest that his mastery of legal subject matter is as broad as his far-reaching human concern.

Finally, a measure of the man is to be found in the circumstances of his voluntary relinquishment of his office of Chief Judge a few months ago to assume his present status of Senior Circuit Judge. Judge Staley elected to become a Senior Circuit Judge at the age of 65, the earliest age at which the law permits an active federal judge to make that election. In so doing, he enabled the President to appoint a successor while he would continue to sit and to share in the work of the court as a Senior Judge. Thus, he was willing to give up the office of Chief Judge and assume a less celebrated and conspicuous judicial role, albeit a most useful
one, in order that the judicial manpower available to an overburdened
court might be increased. A second motivating consideration is one that
he would not publicize, although I can properly do so. His age and mine
are about the same. So though he could have continued five years longer
as chief judge, he was concerned that he not continue so long as Chief
Judge that I would, by reason of age, be deprived of the opportunity to
serve as chief judge of our court. On both counts, his motivation was
selfless concern for the administration of justice coupled with fraternal
regard for all of his colleagues, and particularly his administrative suc-
cessor.

We shall miss him as our chief. At the same time, we rejoice in the
prospect that, in continuing physical and mental vigor and relieved of
the burdens of judicial administration, Senior Judge Staley will continue
for a long time as a productive Circuit Judge working with friends and
colleagues who hold him in the highest professional and personal esteem.