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# A Tribute to Ralph J. Cappy, Chief Justice, Pennsylvania Supreme Court, Retired

*Elizabeth Surgent Minnotte\**

For twenty years, I declared to anyone within earshot that I had the best job in Pennsylvania. I served as the Chief Law Clerk to Pennsylvania Supreme Court Justice, Ralph J. Cappy. For the last five of those years, he was the Chief Justice. In honor of his retirement from the bench, Duquesne University School of Law is dedicating an issue of its flagship journal, *Duquesne Law Review*, to the legal accomplishments of Chief Justice Cappy during his tenure on the Court. Clerking for Chief Justice Cappy provided me the opportunity to work on the most interesting and legally complex cases in Pennsylvania over the last two decades, from *Commonwealth v. Edmunds*<sup>1</sup> to *Riverwalk Casino, LP v. Pennsylvania Gaming Control Board*.<sup>2</sup> The intellectual stimulation of crafting a complex, comprehensive, and persuasive legal opinion on the Supreme Court is a challenging and rewarding task; but, enough about the law. My assignment is to talk about my boss, and my friend, Ralph Cappy.<sup>3</sup>

In putting pen to paper, I struggled to find an angle from which to offer the reader a glimpse of Ralph Cappy, as I have known him over the years. How best to convey a word picture of this interesting and accomplished man? Initially, the idea of setting forth his incredible résumé and list of awards and honors seemed fitting. Detailing his college and law school accomplishments at the University of Pittsburgh—an institution he remained loyal to throughout his life, serving as a member of the Board of Trustees until his death—would fill several paragraphs and provide a sense

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\* Elizabeth S. Minnotte served as Chief Administrative Law Clerk to Chief Justice Cappy from 1990 until his retirement from the bench. Mrs. Minnotte is now in private practice.

1. 586 A.2d 887 (Pa. 1991).

2. 926 A.2d 926 (Pa. 2007).

3. This issue of *Duquesne Law Review*, and of course this particular biographical sketch, was begun as a living tribute to an accomplished jurist; with the sudden death of Ralph Cappy, our commentary on his life and its impact upon all the communities and people he influenced takes on a different tone. I have endeavored to maintain this piece with a light touch, as my relationship with Ralph had many dimensions, but throughout all of them there was humor, honesty, and loyalty.

of Ralph Cappy, the emerging young leader. I could repeat the stories of how he developed his craft as a negotiator and mediator, while an undergraduate, by working with University of Pittsburgh Chancellor Edward H. Litchfield to settle disputes between the University and his fellow students. According to the well-known local lore of Ralph Cappy, it is this early stint as an advocate for his fellow students that turned him away from the career his mother wished him to pursue in medicine, to the very public career he chose in the field of law. After a few stories of his undergraduate exploits, we arrive at his law school graduation, University of Pittsburgh School of Law, class of 1968. From here, we could follow the trajectory of the young trial lawyer who sacrificed the development of a lucrative private practice to continue upon the path as an advocate for those in need. This would take us to his arrival at the newly-created Office of the Public Defender of Allegheny County.<sup>4</sup>

From this point in the piece, I could talk about Ralph Cappy and all the unusual characters he encountered while honing his courtroom skills as an Assistant Public Defender in the criminal and juvenile courtrooms of Allegheny County. Or I could focus instead on how Ralph developed his administrative skills, rising through the ranks at this fledgling new agency, eventually taking over the reins as Director of The Office of the Public Defender in 1975. With a slight detour at this point in our biographical tour through the life and times of Ralph Cappy, I could point out to the reader that this is when he developed that unique "Tom Sawyer"-style of leadership that became a hallmark of his superior administrative style. Being a Public Defender is not an easy task, but under Director Cappy, the staff enjoyed the long hours and austere conditions of their public service and "painted many a fence" with a smile on their faces. Ralph Cappy has that rare ability to convince you that dedication and public service for minimal financial compensation is not only a valiant and worthy cause, but also great fun. However, if I were to continue with this linear résumé, I would now note that his career as Director of the Office of Public Defender was short-lived.

At the early age of 34, the youngest person ever selected to the post, Ralph Cappy was appointed as a Judge on the Court of Common Pleas of Allegheny County. His appointment to the

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4. With the landmark decision of *Gideon v. Wainwright*, 372 U.S. 335 (1963), the Pennsylvania Legislature enacted the Public Defender Act in 1968.

bench was quickly followed by his election to a full term on the Court of Common Pleas, where he moved successfully from Family Division to Criminal Division and then on to become the Administrative Judge of the Civil Division. After rotating through every important type of litigation as a trial judge, Ralph Cappy was elected to the Pennsylvania Supreme Court in 1990.

This biographical sketch of Ralph Cappy's educational and legal résumé supplies the baseline facts, but it lacks depth and substance.

Moving beyond the outline of a résumé piece, I thought to fill out the picture of Ralph Cappy by reciting the applicable, yet typical, platitudes commonly offered to describe successful, accomplished people. Repeating for common consumption the accolades, well-deserved by Chief Justice Cappy, I note that he is a remarkable legal scholar with a gifted mind for seeing through the tangles of a legal conundrum to the correct and just result. Cappy, the jurist and lawyer, has an uncommon work ethic, always pushing past the accepted point of endurance, while pulling everyone else along with him. He remained dedicated to the rule of law and courageous in his convictions, never afraid to stand alone on principle.

Those things are all true of Ralph, yet they fail to reveal much about the person I know, as apart from the Justice I served.

After considerable contemplation, I have settled on one simple word to illuminate Ralph in the sense that I knew him and would like others to appreciate him. *Equality* is the one word that, in my mind, best expresses the true nature of the man while simultaneously encapsulating the essence of his tenure as a jurist. For Ralph, equality was not an elusive goal to strive towards in some distant future. Equality is the baseline by which he lived and the sprit that always motivated and invigorated his legal and judicial career. Recently, Chief Justice Cappy was honored as the recipient of the Susan B. Anthony Award in recognition of his dedication to supporting and nurturing women in their professional advancement. Much was made of his lifelong commitment to women in the law. Throughout his public career, Ralph Cappy hired, promoted, supported, campaigned for, and advised women in their individual and collective struggles to achieve recognition and respect in the legal community. As a woman, and a direct recipient of the Cappy support system throughout my own career, I truly and humbly thank him for his efforts on behalf of myself, and all women. But I am compelled to point out that his efforts on behalf of our gender tell only a part of the story.

To see Ralph simply as a crusader for the equal rights of women is to limit the achievements of the man. Ralph Cappy believed that everyone, of any gender, race, religion, or ethnic origin, deserved a place at the table, and an equal share of the opportunities life offers.<sup>5</sup> From my observation point, it was this singular devotion to equality across the board that provides a greater sense of the man. It is what explains his unerring sense of personal justice. For Ralph, "justice for all" is not just a clever phrase to be engraved on a desk plate or an ideal to be spoken of in remote, wishful terms, but actually, the point to be achieved in each case that crossed his desk.

It was in my tenure as his clerk that I came to see just how deep his sense of equality and personal justice ran. In the chambers where we worked to bring his ideals into reality, each of us were treated with the respect, dignity, and consideration that he worked so diligently to bring out in his opinions over the years. To have the honor of working with Ralph Cappy is to know true equality. There were many moments that we disagreed on points of law; there were many heated emotional exchanges fueled by idealism, but there were never any moments when that debate was less than a respectful exchange between persons of equal intellect. This living, breathing feeling of being an equal and valuable player in the process itself is the inescapable essence of the man and, to me, it defined the true identity of Ralph Cappy.

As a jurist, it was always his mission to find the answer that created the greatest balance or sense of equality. His mission to personally correct the inherent inequality in the world around him is the force that drove Ralph Cappy to be a lawyer, and then a judge, and then the Chief Justice of Pennsylvania. It is the singular characteristic of the man that explains the most about him. Ralph Cappy was destined to be a judge. It was the only true vocation for a man of his natural ability. And it was with great pleasure that I served as his clerk for over twenty years. Thank you for the best job of my life.

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5. An obvious example of Chief Justice Cappy's commitment to equality can be seen through his devotion to the creation of the Interbranch Commission for Gender, Racial and Ethnic Fairness in Pennsylvania.