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Timothy K. Armstrong

Michael A. Korengold

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## JUDGE JOHN MINOR WISDOM: OUR FRIEND AND MENTOR

*Timothy K. Armstrong and Michael A. G. Korengold\**

The task of writing a tribute to Judge John Minor Wisdom is both simple and daunting—simple because the Judge meant so much to us; daunting because so much has been written and said that it is a challenge not to turn the Judge into something unreal. For all of his qualities as a jurist, a scholar, a courageous player in the history of our nation—qualities that the various tributes have heralded with every deserved detail—the Judge was a wonderful friend. It is in that capacity that we miss him the most.

When we began our clerkships in 1993, Judge Wisdom was 88 years old. In the course of interviewing us two years earlier, the Judge gave his “*Miranda* warning”: “You are a young talented lawyer. You should clerk for an active judge. Moreover, I am not getting any younger, a consideration you should factor into your decision.” For us, like many others who had received a similar warning, it fell on deaf ears. Of course we knew that, although the Judge had shown himself to be in remarkable physical shape and possessed of amazing stamina, still putting in a full work week even though his “senior status” allowed for a reduced case load, at some point, the realities of the aging process would take their toll even on him. But the opportunity to spend a year in his chambers was simply too great an honor to pass up. We happily accepted the clerkships and hoped that the next two years until they began would pass quickly, without event.

So much that has been written about the Judge has come from older clerks, particularly those who assisted the Judge during the trying times of the civil rights cases, when the Judge was putting his indelible stamp on history. It is an important opportunity for us, however, to give the view of the younger generation—equally touched and forever changed by our association with this great man.

Upon taking over our duties, Judge Wisdom demonstrated his powers and gifts for the English language. Quite simply, Judge Wisdom was the best writer we have ever read. His style was “Hemingwayesque”—sparse, uncluttered prose that went directly from point A to point B and was immediately comprehensible even to the non-lawyer. At times, his writing slipped the bounds of legal discourse entirely and became pure poetry. The best known example may be the closing paragraph of his dissent in the historic contempt case against Ross Barnett, the old-time segregationist Governor of Mississippi who, in a famous incident, attempted to physically bar the doorway of the Ole Miss registration building to block James Meredith’s entrance.<sup>1</sup> Barnett was charged with contempt for disobeying the Court’s decision—backed up by repeated orders and injunctions—requiring that Meredith be admitted. The contempt case languished

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\* Timothy K. Armstrong is an attorney with the law firm of Howrey Simon Arnold & White LLP, Washington, D.C.; B.A. 1989, M.P. Aff. 1993, J.D. 1993, The University of Texas at Austin. Michael A. G. Korengold is an attorney with the law firm of Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P., New Orleans, Louisiana; A.B. 1986, Vassar college; J.D. 1993, University of Minnesota Law School.

1. See JACK BASS, UNLIKELY HEROES 172–200 (1981). The Meredith incident with the resulting proceedings against Ross Barnett was one of the many episodes masterfully recounted in Professor Bass’s remarkable history of the Fifth Circuit during the civil rights years.

for a while on procedural technicalities but eventually wound up before the Fifth Circuit sitting *en banc*. The majority voted in Barnett's favor. Wisdom dissented. His concluding paragraph is a classic; he even composed the last sentence in iambic pentameter. We quote it here not for its historic significance, which has been well chronicled by abler hands than ours, but to highlight Judge Wisdom's breathtaking artistry with the written word:

There is an unedifying moral to be drawn from this case of *The Man in High Office Who Defied the Nation*: The mills of the law grind slowly—but not inexorably. If they grind slowly enough, they may even come, unaccountably, to a gradual stop, short of the trial and judgment an ordinary citizen expects when accused of criminal contempt. There is just one compensating thought: Hubris is grist for other mills, which grind exceeding small and sure.<sup>2</sup>

The Judge's writing was a joy to read, with an effortless grace we will spend the rest of our lives trying to acquire.

Of the many accolades Judge Wisdom deservedly received over an extraordinary lifetime, we have a special fondness for the two he fortuitously received during the year of our clerkships. We considered ourselves extremely fortunate to have clerked for the Judge at the time President Clinton awarded him the Presidential Medal of Freedom in a ceremony that also honored Thurgood Marshall and William Brennan.<sup>3</sup> The Judge walked on air for weeks afterwards. It seemed that nothing anyone could do for him would ever top that, until something did: later that same term, the beautiful, historic courthouse building in downtown New Orleans ("historic" even though it was actually five years younger than the Judge himself) was renamed the "John Minor Wisdom United States Court of Appeals Building."<sup>4</sup> The renaming of the courthouse seemed to mean even more to the Judge than the Medal of Freedom because the courthouse was where he had actually made his name, and it was an enduring edifice. He always joked afterwards about making an excuse to go to his chambers downtown over the weekend just so he could tell the cab driver to "take me to my courthouse!"

Judge Wisdom's astounding intellect made him a natural polymath, a voracious reader and an expert on more subjects than we can name. Virtually every room in the Wisdom household, including the bathroom, teemed with books reflecting the breadth of the Judge's interests. Shakespeare and Louisiana history, including the thousand-year history of the civil law, were among his particular passions. As his clerks, we took perverse satisfaction in the occasional discovery that we knew something about which Judge Wisdom did not already know more. Technological matters were certainly among these; although his strengths were

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2. *United States v. Barnett*, 346 F.2d 99, 109 (5th Cir. 1965) (Wisdom, J., dissenting).

3. *Remarks on Presenting the Presidential Medals of Freedom*, 1993 PUB. PAPERS 2081, 2083. The President described Judge Wisdom as "a truly first-class legal scholar who writes brilliant opinions" and "a son of the old South who became an architect of the new South." *Id.*

4. John Minor Wisdom United States Court of Appeals Building, New Orleans, Louisiana, Pub. L. No. 103-256, 108 Stat. 690 (1994).

many, Judge Wisdom was resolutely a man of the twentieth, not the twenty-first, century. We wonder what he would have made of the Internet.

The Judge married Bonnie in his twenties and remained married to her his entire life. "Sixty years," he would joke on their anniversary, in that wonderful gravelly New Orleans accent of his, "and never a peaceful moment." Bonnie, herself an authority on Shakespeare and Shaw, seemed a perfect match for the Judge in intellectual temperament, and law clerks returning to New Orleans for a reunion often seemed as eager to see Bonnie again as to catch up with the Judge himself.

We law clerks became the Wisdoms' surrogate grandchildren. Like so many before us, we would have dinner at their home in uptown New Orleans every few weeks. We took turns, alternating weekly, driving the Judge to and from the chambers. Contrary to the assumptions of many, this was not a product of the Judge's age. Rather, although the Judge was blessed with more than his fair share of qualities, driving was not among them. These are the times that we most cherish—the opportunity to discuss current events and the history of Louisiana, riding with the Judge up and down St. Charles Avenue. We often had to pinch ourselves as we remembered who was sitting next to us in the front seat talking in the first person about major historical events.

We occasionally socialized, too, with the Judge and Bonnie. Often, upon arriving at his house, the Judge would invite whoever was driving inside for a nightcap. The Judge liked his drinks strong enough to peel the wallpaper at ten paces. To join him in a drink was not for the faint of heart. On one occasion during our year, the entire Fifth Circuit, all fifteen or so judges, were in town for an *en banc* session of the Court, and the Judge hosted a reception for all of them at his house. When we were invited to attend, we both thought we were going to be there to serve drinks and take the judges' coats, but it turned out we were there as guests—two newly minted (and pretty star-struck) young lawyers mixing and mingling with fifteen federal appellate judges. It made quite an impact on us—although our awe probably made us tongue-tied, and we likely left not much of an impression on the assembled Fifth Circuit.

Even after our clerkship ended and the two of us went off to make our own careers, the Judge stayed interested in what we were doing, periodically telephoning just to catch up with us. In 1998, one of the present authors became involved in the litigation arising out of the Monica Lewinsky investigation. When he sent Judge Wisdom a copy of some of the Supreme Court briefs he had helped write in the case, Judge Wisdom wrote back a complimentary letter thanking him for them and expressing great pride that another of his clerks had gone on to do important work—but the Judge, being the Judge, also took pains to include some editorial comments that would have made the briefs even better.

Judge Wisdom lived life with the gusto of a much younger man; a *joie de vivre* we will be lucky to match when we reach half his age. He loved to spend the afternoons reminiscing and playing cards with old friends. He was a famous patron of some of New Orleans' landmark restaurants such as Commander's Palace, Antoine's, and Galatoire's. It was always a real pleasure to accompany

him for lunch or dinner at one of his usual haunts, where he was always recognized by the staff and given the red-carpet treatment (which also extended to his guests). The Judge had a very quick wit and an excellent sense of humor. We hope a few of the jokes recounted herein have captured his personality.

Particularly in his later years, the extended family of the Judge's former law clerks, numbering well over 100, held frequent, usually annual, reunions in New Orleans. These were occasionally bittersweet affairs, for although we were always happy to spend more time in the Judge's and Bonnie's company, our private conversation inevitably touched, at least in part, on the state of the Judge's health and the limited number of additional reunions the future could hold. On the one hand, the reunions were times of merriment, song, and exchanges of reminiscences with the Judge's clerks of decades past. On the other hand, no one among us will soon forget one particularly melancholy reunion that Bonnie was too ill to attend. The Judge was nearly overcome with emotion in a speech thanking us all for attending and explaining how much the clerks had become like his family.

Leave it to Judge Wisdom to identify the best metaphor. Just as our families shape us, so too, years later, do we still look back on our clerkship with Judge Wisdom as the defining, formative experience of our legal careers. Judge Wisdom was, to us, a mentor from whom we learned more than we imagined possible, and a friend whose comfortable grace and humor never failed to put us at ease. History will weigh the burden of his passing on the numerous areas of law touched by his influence. For ourselves, we can only say: we miss him very much.

The Mississippi College Law Review published an incorrect version of Karyn K. Ablin & Anil Koshy, *A Matter of Opinion: Deciphering Dilution Under the Federal Trademark Dilution Act*, 20 Miss. C. L. REV. 61 (1999). The correct version of the article is reprinted in this volume, and should be cited as 20 Miss. C. L. REV. 245 (2000). The Mississippi College Law Review regrets any confusion this has caused its subscribers.

