

A TRIBUTE TO JUDGE MARK KRAVITZ

by
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On a stunningly clear spring day in May 2012, our friend Mark Kravitz was honored by his college for distinguished service to his country and community. The occasion was Mark's fortieth class reunion. It was my fiftieth reunion at the same college, and if a decade hadn't separated us, I like to think our friendship would have begun there. Even without the fortuity of our reunions, my wife Susan and I would not have missed this moving occasion. At that time, Mark was well into his illness, and the historic hall on college row next to the chapel was packed with Mark's family, friends, and admirers.

It was a poignant event and as always, Mark, modest and dignified, warm and welcoming, naturally and graciously drew all of us to him. But there was something more as well that enveloped us in his friendship and that was his essential goodness and decency. What a magnificent person.

Surprisingly, we had never met until some years ago when Mark joined the Standing Committee (the Committee on Rules of Practice and Procedure). And then we quickly realized the many points of connection, some of them uncannily close. We had grown up in neighboring Philadelphia suburbs, attended the same small New England college, and even belonged to the same college social organization. We shared the same respect and admiration for the same professors and the friendship with a renowned professor of history. Mark's lovely wife Wendy, along with all members of her family, attended the same school where my wife has taught for decades and where our children also attended. And on his way to a clerkship with Chief Justice William Rehnquist, Mark clerked for my esteemed colleague on the Third Circuit, Judge James Hunter. The connection made, I had good reason to look forward to many years with Mark.

And so we became close friends, and I marveled at his exquisite judgment and uncommon temperament. All of this is well known to those of us who worked with Mark on the Standing Committee or on the Advisory Committee on Civil Rules. But we also knew him as a wonderful

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father, a loving husband, a wise friend, a fair judge, and a courageous public servant.

On that freshly beautiful spring day in May 2012, his college's elegant tribute to Mark described a virtuous man:

Your incisive [legal] mind, your eloquent and scholarly opinions and your scrupulous reading of the law make you a judge much admired in the legal profession. You are focused and tenacious—how many would take Latin to prep for law boards? You love and joyfully live the law, delighted by the human drama of the courtroom, tirelessly working, even in the face of physical adversity, to bring justice to all who stand before you. Today, as we proudly proclaim you a Distinguished Alumnus, we thank you for modeling that to which we should all aspire in our pursuit of a just society: wisdom, compassion, and truth.¹

After a distinguished career as a lawyer practicing with the New Haven law firm of Wiggin and Dana, Mark was appointed by President George W. Bush to the United States District Court for the District of Connecticut. He was unanimously confirmed. Those who appeared before him enjoyed the guarantee of an extraordinary jurist, of having their day in court. New Haven trial lawyer Karen Lee Torre wrote in a tribute to Mark: "I was one of those lawyers who had the opportunity to litigate cases before Judge Kravitz. I loved being in his court. I loved arguing points of law before him because he loved the exercise. . . . He made you a better lawyer."² Further, she perceptively summed up the bar's admiration for Mark:

The mark of a bad judge is a bar split; that is, one side rejoices in fetching the assignment, and the other side wants to scream. Those judges are few. The mark of a good judge is the number of lawyers who are content with the assignment. These judges abound. The mark of a great judge, however, is the number of lawyers who haven't won a thing in his court and have time and again been on the losing end of his rulings, but cannot wait to draw him again. . . . Mark Kravitz was a great judge.³

Mark was a great judge because he was a paragon of judicial virtue. As Yale Law School Professor Dan Kahan put it:

Being able to see complexity and being moved to engage it openly are character dispositions, and they conduce to being a *good* judge. A judge who is committed to being just *will* experience *aporia* when he or she must decide a genuinely complex case; and by resort to aporetic reasoning in his or her opinion, that judge assures citizens generally that their rights are being determined by someone com-

¹ David F. Levi, Lee H. Rosenthal & Anthony J. Scirica, *ALI Colleagues Remember U.S. District Judge Mark Kravitz*, A.L.I. REP., Fall 2012, at 7, 10 (quoting Remarks at Wesleyan University's 2012 Distinguished Alumnus Award Ceremony (May 2012)).

² Karen Lee Torre, *The Honorable Mark R. Kravitz; Legally Conservative*, CONN. L. TRIB., Oct. 8, 2012 at 34.

³ *Id.*

mitted to judging impartially. Mark Kravitz had this virtue. In fact, for me, he was and remains the model of it.⁴

As Kahan went on to note,⁵ nowhere was this quality more evident than in one of the last cases Mark decided, *Mitchell v. City of New Haven*.⁶ *Mitchell* involved members of the Occupy movement seeking, on First Amendment grounds, to stop their imminent eviction from the New Haven Green.⁷ The case presented complex issues, and the politically charged public commentary often disparaged one side or the other. Mark's opinion—which denied injunctive relief—treated the arguments and parties on both sides with the respect the matter deserved:

The Occupy movement, in New Haven as elsewhere, aims to exemplify its message: to express the desire that the economically disenfranchised become more central to American public life by literally placing the economically disenfranchised in the center of America's public spaces. Defendants need not deny the obvious political expressivity of this act in order to argue that reasonable limits on acts like this may still be necessary and appropriate.⁸

One side prevailed, but both parties received an extraordinary opinion. Outside the courtroom, Mark was no less a model of civic virtue. In his tribute to Mark on the floor of the United States Senate, Senator Richard Blumenthal honored him as a model citizen of his community:

Judge Mark Kravitz was known throughout Connecticut and our Nation's highest courts as a respected judicial authority, experienced appellate litigator, legal scholar, and community leader.

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Outside of the law, he gave back to Connecticut as founding director of both the Yale Children's Hospital and Connecticut Food Bank. In addition, he volunteered his time on the boards of several nonprofit organizations, including the Connecticut Foundation for Open Government, Guilford Library Association, and Board of Ethics for the Town of Guilford. Judge Kravitz cared deeply about morality and integrity—and lived according to the highest principles.⁹

In this way, Mark touched many lives. Connecticut trial lawyer Norm Pattis wrote of Mark's passing:

When I walked by the New Haven federal court the other day, I wanted to stop by his chambers. . . . I recalled a nice note he once sent me after I left New Haven and set up a practice of my own. I recalled difficult arguments before him, where I watched him struggle with paradox and saw joy in his eyes. I recalled his courage

⁴ Dan Kahan, *The Aporetic Judge*, CULTURAL COGNITION PROJECT BLOG (Oct. 2, 2012), <http://www.culturalcognition.net/blog/2012/10/2/the-aporetic-judge.html>.

⁵ *Id.*

⁶ 854 F. Supp. 2d 238 (D. Conn. 2012).

⁷ *Id.* at 240.

⁸ *Id.* at 247.

⁹ 158 Cong. Rec. S7302 (daily ed. Nov. 30, 2012) (statement of Sen. Blumenthal).

when I last spoke to him alone and he told me he had no regrets. . . . By the time I was a block away from the courthouse, I was no longer glum, and I did not feel the need to search for sorrow. Yes, he is gone, somehow. Yet the memory of the man is present. The gifts he gave us so generously remain in the hearts and minds of those he touched. . . . He was grace amid the law's stormy conflicts. This is as close to immortality as we can get.¹⁰

And in a rare tribute to an individual in a Year-End Report of the Federal Judiciary, Chief Justice John Roberts—who, like Mark, clerked for Chief Justice Rehnquist—remembered Mark as a courageous public servant. In the closing paragraphs of the 2012 Report, Chief Justice Roberts wrote:

[O]ur Nation owes a debt of gratitude to those who answer the call of their country and provide loyal and selfless service for the benefit of their fellow citizens. There are countless examples of such service through our judicial system, but this year I would like to draw attention to just one.

On September 30, 2012, Mark R. Kravitz, United States District Judge for the District of Connecticut, passed away at the age of 62 from amyotrophic lateral sclerosis—Lou Gehrig's Disease. We in the Judiciary remember Mark not only as a superlative trial judge, but as an extraordinary teacher, scholar, husband, father, and friend. He possessed the temperament, insight, and wisdom that all judges aspire to bring to the bench. . . . Mark battled a tragic illness with quiet courage and unrelenting good cheer, carrying a full caseload and continuing his committee work up until the final days of his life. We shall miss Mark, but his inspiring example remains with us as a model of patriotism and public service.¹¹

Mark lived life guided by wisdom and compassion. He judged with fairness and integrity. And he served his community and his country with joy and courage.

¹⁰ Norm Pattis. *The Gift of Immortality*, NORM PATTIS BLOG (Oct. 4, 2012), http://www.pattisblog.com/index.php?article=The_Gift_of_Immortality_6141.

¹¹ CHIEF JUSTICE JOHN G. ROBERTS, JR., 2012 YEAR-END REPORT ON THE FEDERAL JUDICIARY 10–11, available at <http://www.supremecourt.gov/publicinfo/year-end/2012year-endreport.pdf>.