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TRIBUTES

MY REFLECTIONS ON THIRTY YEARS OF JUDGING¹

THE HONORABLE JANE E. MAGNUS-STINSON*

I begin by expressing my thanks to the *Indiana Law Review*² for publishing this tribute. It has prompted a long walk down memory lane, and much gratitude. I particularly express my thanks to my law clerk and former ILR Editor-in-Chief, Natalie Wichern, who worked mightily to shepherd this project. Natalie served as ambassador to the contributing authors, a former Indiana Governor/United States Senator, and six federal judges including me. Her grace, patience, and persistence in managing the process exemplify but a few of her many talents. The reader should remember her name, she will be a force for good and a stellar addition to the Indianapolis legal community. In this reflection, I will share some observations about people, problems, and progress.

People.

Immediate Family. I begin by acknowledging the constancy of the love and support I receive(d) from my immediate family. My husband, Bill Stinson, has been my champion and anchor. His humor, pragmatism, and love have been my ballast throughout my judicial tenure. Bill had the strength and patience to be

1. My first term as a Marion Superior Court Judge began on March 5, 1995.

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2. I also thank the *Indiana Law Review* for overlooking my “dishonorable discharge” from the ILR editorial board in 1983. In March of that year, I was ordered by the senior editors—my classmates—to write a letter pledging to complete the remaining hours of cite-checking for which I was responsible. While normally an obedient rule follower (thank you, Sister Pius), I sensed a powerplay and while I refused to write such a letter, I did call the Editor-in-Chief. I explained that I had just completed the February Bar Exam and, that with only one upcoming final that semester, I would have plenty of time to complete the twenty-two or so hours owed. Nevertheless, I received a letter a few days later, firing me, and prohibiting me from ever claiming that I served on the editorial board because I “failed to demonstrate the requisite commitment.” Unfortunately for me, the prior year’s Editor-in-Chief, my wise friend Professor R. George Wright, had graduated. So, he was unable to champion my cause as I know he would have, and as he has done for over forty years. I hope this tribute bears testament to my work ethic and demonstrates my commitment to both public service and the rule of law.

the husband of the judge, exhibiting nothing but pride. As my classmate and best woman Monica Foster said at my investiture as a Magistrate Judge: “Bill Stinson, it takes a strong man to be married to such a strong woman.” My husband is mighty. To my beloved daughters, now adult friends, the joy and pride you evoke are boundless. As I have said often, Bill is my best decision and you, my best work.

Family of Origin. I am the second of five children, raised in suburban Chicagoland in a very homogeneous – read White – suburb. As to siblings, the first four of us, Kari, Jane, Bob, and John, were born within seven years. We were a rambunctious, happy crew. Nine years later, my baby brother Michael, dubbed “Precious Perfect” by my mother, was born. The rest of us were pretty darn good, too, if I do say so. Thanks to my siblings who are now—like my girls—close friends.

My wonderful parents, Bob and Holly Magnus, instilled the values of family, friends, faith, and fun. My father taught honesty, the marvel of caramel corn, and singing with the radio. My mom taught laughter, harmonizing with the person singing with the radio or at Mass, and a boundless curiosity and interest in other people and their experiences. Around 1969, she brought into our home and family a young Black boy who was a ward of the State of Illinois living in a nearby Catholic Charities residential facility, Maryville. While he never lived with us, Albert Harris remains a sibling in our lives to this day.

Friends. I am blessed to have a personal board of directors who have been by my side through law school, parenting, and most or all of my thirty years of my judicial career. Separate from those recognized elsewhere, I thank my homies, Allison, Amy, Anne, Briget, Cathie, James, Jill, Kathleen, Karen, Kerry, Mary, Meg, Nancy, Shaun, Simone, and Susie. Bette Midler was right, ya got to have friends.³

Court Families. I have been blessed to have two court families. First, in the Marion Superior Court, I thank my two Master Commissioners Jane Barker and Judge Jeffrey Marchal. You were my first hires who are smarter than I am, and your work was outstanding. Thanks for sharing the workload of a busy major felony court. I also thank my bailiff Brenda Snorten, a kind, hard-working, and most competent co-worker.

It was both a shock and a profound honor when I was selected as a magistrate judge by the then-district judges of the Southern District of Indiana (“SDIN”)—Sarah Evans Barker, Larry J. McKinney, John Tinder, David Hamilton, and Richard Young. The majority of those judges were appointed by Republicans, but they gave me—an elected democrat judge—a shot. I thank them for their trust, friendship, and patience with me through the years. My current district court colleagues include Judges Young and Barker as well as Chief Judge Tanya Walton Pratt and District Judges Jim Sweeney, JP Hanlon, and Matthew Brookman. I am proud to serve with them. Our court is also

3. BETTE MIDLER, *Friends* (Atl. Recording Studios, 1973) (written by Buzzy Linhart and Mark “Moogy” Klingman).

blessed with a cohort of magistrate judges who are brilliant jurists, effective mediators, and good friends. Tim Baker, Mark Dinsmore, Mario Garcia, Kellie Barr, Kendra Klump, Crystal Wildeman, and Craig McKee, thank you for your great work. You bring justice to the litigants we serve.

My Law Clerks. When I reached the federal court in 2007, I learned three new favorite words: my law clerks. I have grown my chosen family by eighteen during my time as a magistrate judge and district judge. Collaborating with these talented lawyers has been the greatest joy and blessing of my time in the Southern District. Their collective intellect and creativity have made me a better judge. And they are doing great things in the law. There is a line from Jon Batiste's song "Freedom" that I commend to my clerks: "Now it's your time, you can shine, if you do, Ima do too."⁴

I give special recognition to my two career law clerks, Magistrate Judge Kellie Barr and my current career law clerk Elena Gobeyn. Judge Barr was my wing woman for seven years, bringing her brilliant research, creative writing (she quoted Bruno Mars in an order and coined the term Stintern for our law student externs), and good humor to chambers making it a friendly, collaborative environment. How fortunate we are that Judge Barr has become a colleague and brings her many talents and her warm friendship to our court. I am deeply grateful for Judge Barr's contribution to this tribute, and its reflection of our shared commitment to service.

Elena Gobeyn has been by my side since 2012 and has been my career law clerk since 2017. That means we are sister wives in the workplace. What a blessing that she has chosen to work with me, knowing how I am, for all those years. She shares my commitment to the pursuit of excellence in our work, and often encourages me to tap the brakes when I am going too fast. Plus, she doubles as a private investigator, putting Google to use in ways that fascinate and amuse us.

By way of understatement, I recognize the stellar contributions of my Courtroom Deputy Clerk Michelle Imel to both my career and my life. Bequeathed to me by V. Sue Shields, Michelle Imel is the gift that keeps on giving. Not just my courtroom deputy clerk, she is my partner in all things work and life, she keeps me organized, sane, balanced, and laughing. She is thoughtful, proactive, and projects the expectation of excellence for the work of the court by her own excellent performance. In a recent performance evaluation, I paraphrased the old hymn: Michelle is my rock and my salvation. Thanks to her family for sharing her with me.

District Court Clerks During My Tenure as Chief Judge. I served as Chief Judge of SDIN from November 2017 through March of 2021. During those four and a half years, our court experienced: the deaths of two judges, a government shutdown, protracted judicial vacancies during burgeoning caseloads, the COVID-19 pandemic, and thirteen federal executions in Terre Haute between July 2020 and January 2021. It was a brutal experience only made tolerable

4. JON BATISTE, *Freedom* (Verve Records 2021).

because of the capable and dedicated service of the two District Court Clerks with whom I served, Laura Briggs and my former law clerk, Roger Sharpe. I thank you both. And I know that time was as difficult for you as it was for me.

Governor/Senator/Friend Evan Bayh & Bayh Colleagues. One of the most impactful career moves of my life was landing a position in the office of Governor Evan Bayh. Governor Bayh effected important changes in Indiana, not only in the policies and programs he sponsored, but also in the people he chose to implement them. For the first time, women and minorities assumed many positions of responsibility as Governor's staffers, agency heads, the Attorney General of Indiana, and as a justice of the Indiana Supreme Court. Governor Bayh's recognition of an individual's merit, even if the individual didn't look like him, brought diverse talent to the leadership of our state. It was an honor to serve with Governor Bayh and such wonderful people and community leaders as former mayor Bart Peterson, Fred Glass, Pamela Carter, Jean Blackwell, John Dillon, Bill Shrewsbury, Lacy Johnson, current Indianapolis Mayor Joe Hogsett, and Justice/Professor/Supermentor Frank Sullivan as well as his wife Cheryl. They are former trusted colleagues and current dear friends.

I take judicial notice that I wouldn't be a judge without Governor/Senator Bayh. He took a chance on appointing a civil litigator to a major felony criminal court in 1995 and took another when he recommended me as an Article III judge in 2010. I offer heartfelt thanks to Senator Bayh, Senator Richard Lugar, and President Obama for their trust in me. A bipartisan nomination, those were the days.

Finally, the Bayhs and the Stinsons became parents six months apart, and that shared experience enhanced our friendship and our lives. Thank you also, Evan, for taking the time to participate in this tribute with your son, a fabulous Stintern, Beau Bayh.

Problems.

Criminal Justice. After serving over thirty years as a judge with criminal jurisdiction, an observation I made in my first year on the bench sadly remains true: those in the criminal justice system are almost uniformly impacted by poverty, adverse child experiences, and substance abuse.

In both state and federal court, well over ninety percent of those charged with crime qualify for an appointed attorney at public expense—the public defender. That statistic alone demonstrates the link between poverty and the criminal justice system.

Since I first became a judge with criminal jurisdiction, the science surrounding childhood trauma and its impact on brain development has exploded. The term “adverse childhood experiences” had yet to be coined when I first started, and now we hear about it on the evening news. We know that those who face abuse and neglect suffer physiological effects on their brain

development, often impairing what might be called good judgment and/resulting in serious mental illness. Unfortunately, our underfunded social service systems are often unable to provide the services and interventions that these children need, or the services and interventions that their caregivers need. I imagine a world where interventions during childhood become a serious tool in crime prevention, avoiding both impact on victims of crime and the staggering costs of incarceration.

Speaking of incarceration, our correctional system suffers from a similar lack of funding and programming to make it truly rehabilitative. Certainly, effective programs exist within the Bureau of Prisons and the Indiana Department of Correction. But, due to lack of funding, participation is rationed, with inmates often being excluded. The result is unfortunate recidivism rates. Other nations do better, Indiana and the United States could too.⁵

Drug addiction is also a generational problem. People sometimes use drugs just to get high, but more often, drug use is a faulty coping mechanism resulting in poor decision-making or addiction. With too much frequency, I have seen defendants who were introduced to drug use and/or dealing by their parents or relatives, perpetuating the cycles of both criminality and addiction.

Civil Litigation. Poverty has an impact on civil litigation as well. Under-resourced litigants sometimes suffer if a defense strategy is to bury them with discovery. Our magistrate judges do an excellent job levelling that playing field when assessing the factors in FRCP 26(b)(1).

Perhaps the most abused Federal Rule of Civil Procedure is Rule 56. All too often I find myself quoting Judge David Hamilton in *Malin v. Hospira, Inc.*:⁶

We close by noting our disappointment with Hospira's approach to summary judgment practice, which is such a common part of modern federal civil litigation and especially employment discrimination cases. Both in the district court and in this appeal, Hospira has misrepresented the record and Malin's legal arguments. . . .

Hospira seems to have based its litigation strategy on the hope that neither the district court nor this panel would take the time to check the record. Litigants who take this approach often (and we hope almost always) find that they have misjudged the court. We caution Hospira and other parties tempted to adopt this approach to summary judgment practice that it quickly destroys their credibility with the court.

5. See Jill A. Stinson, *We've Got Some Work to Do: How the United States Could Benefit from Implementing Germany's Prison Employment Program*, 33 IND. INT'L & COMP. L. REV. 257 (2023), available at <https://journals.indianapolis.iu.edu/index.php/iiclr/article/view/27372/24995>.

6. 762 F.3d 552, 564–65 (7th Cir. 2014).

This approach to summary judgment is also both costly and wasteful. If a district court grants summary judgment in a party's favor based on its mischaracterizations of the record, the judgment will in all likelihood be appealed, overturned, and returned to the district court for settlement or trial. This course is much more expensive than simply pursuing a settlement or trying the case in the first instance. Further, the costs incurred while engaging in these shenanigans stand a real chance of being declared excessive under 28 U.S.C. § 1927, even if the abusive party prevails at trial on remand. See *Administrative Committee v. Jay*, 135 F. Supp. 2d 941, 944 (N.D. Ill. 2001). Risking such pitfalls in the hope of avoiding a trial is a dramatic miscalculation of the risks and rewards of each approach.⁷

As my dad would say, “knock it off!”

Authorization of Judgeships. Regardless of any district's workload, the creation of new judgeships requires legislation. For the Southern District of Indiana, this means we have been under-resourced and operating in what the Administrative Office of the United States Courts terms a “judicial emergency.” While the national average for weighted filings per judgeship in 2024 was 481, SDIN's average was 628, making us second in the Seventh Circuit and thirteenth in the nation. The nearly thirty percent above average caseload, staffed at the same level as courts with far fewer cases, can result in delay, stressed staff, and less service to the parties who litigate in our district as compared to those with lower caseloads. But make no mistake, we are a diligent and proud court working tirelessly to provide the justice the parties deserve.⁸

Progress.

“*Her Honor.*” When I joined SDIN in 2007 as a magistrate judge, I was only the third woman to serve as a judicial officer, preceded by the iconic District Judge Sarah Evans Barker and SDIN's first woman Magistrate Judge, V. Sue Shields. When I became a District Judge in 2010, I was only the second woman appointed, but within two weeks, my dear friend and colleague Tanya Walton Pratt became the third woman and first African American to be chosen.⁹

7. *Id.*

8. I commend Indiana Senator and IU McKinney graduate Todd Young, as well as his then General Counsel Jessica Helmers Barker, for their recognition of the need to address under-resourced courts and their dogged pursuit of the JUDGES Act of 2024. JUDGES Act of 2024, S. 4199, 118th Cong., 2d Sess. (2024). The JUDGES Act sought to add judges to districts where courts faced a judicial emergency as determined by the Administrative Office of the United States Courts. It provided for the staggered addition of judges over several presidential terms, avoiding any notion of court packing or partisanship. The Act passed the Senate unanimously in August of 2024. When it moved to the House, it was held until after the presidential election, and then passed the House with most Democrats opposed. The bill was vetoed by the President in December of 2024. The Act would have authorized a new judgeship for SDIN in 2025.

9. Credit again to Senators Bayh and Lugar for bringing this diverse perspective to SDIN.

By 2020, when I commissioned *Her Honor*, women numbered three of six district judges, and two of the five magistrate judges in SDIN. I found that progress, along with the 100th anniversary of women's suffrage, worth celebrating. I thank the "*Her Honor*" contributors, Circuit Judge Doris Pryor, Chief Judge Tanya Walton Pratt, District Judge Sarah Evans Barker, and retired Magistrate Judge Debra Lynch, for their dear friendship, their warm words, and their stellar service to the pursuit of justice.

REACH. Our dearly departed colleague, District Judge Larry J. McKinney, along with a team from across the criminal justice system, thought our court could do better to provide support for citizens returning to the community from prison. The Court's REACH program—Re-Entry and Community Help—helps individuals obtain access to housing, employment, and public assistance programs. The vital work performed by Professor Lahny Silva and her REACH/reentry clinic run through my alma mater, IU McKinney School of Law, has literally saved lives. Instrumental in the success of REACH are two of my heroes, Thomas Ridley and Jennifer Poltrock, who know well the plight of those they serve. They also run Thomas Ridley's "One Like Me" community-based re-entry program, whose mission is to reduce recidivism through supportive services and encourage desistance with opportunities. They, too, are having a positive impact on thousands of formerly incarcerated individuals.

Substance Abuse. The Chief Justice of the State of Indiana, Loretta Rush, is a dear friend and a mighty warrior. We were born twelve days apart and are sisters from another mother. Chief Justice Rush has invested her considerable talent and much time in addressing the issue of substance abuse, both in our state and the nation. She served as co-chair of the National Center for State Courts' National Judicial Opioid Task Force. The Task Force made multiple findings and recommendations including these two that struck home with CJ Rush: 1. The criminal justice system is the number one referral source to get somebody to treatment. 2. If you have opioid use disorder, you're thirteen times more likely to be involved in the criminal justice system. Further, as I noted earlier, and owing to her experience as a juvenile court judge, CJ Rush knew that the crisis has a significant impact on children. The Opioid Task Force ultimately recommended community-based and sometimes state-federal collaborative evidence-based models to address this national public health crisis. Thanks in part to the leadership of CJ Rush, Indiana's many county drug treatment courts are working to address addiction holistically in the hopes of preventing further criminal justice involvement of affected people.

Our court has learned from this research, and the dedicated and highly competent probation officers in SDIN provide the appropriate balance between treatment and accountability, ensuring that addicted clients are offered the appropriate treatment modality, and held to account on a progressive scale, if they relapse. My colleagues and I have been educated about the nature of this insidious disease, and we use that knowledge to implement effective treatment plans to curb recidivism.

Public Defense. I have served on many committees during my judicial tenure, but the one that impacted me most was my seven-year term on the Defender Services Committee of the Judicial Conference of the United States Courts (“DSC”). DSC’s membership is comprised of a judge from each federal circuit, and I have served with magistrate judges, district judges, and appellate judges. The Committee “oversees” the operation of the Defender Services Office of the United States Courts (“DSO”). I use quotes because the dedicated and capable DSO staff are perfectly competent to manage themselves, more on that later.

My DSC tenure spawned a newfound respect and admiration for “the defense function”—the provision of competent legal representation to the indigent criminal accused. During my time on DSC, DSO was led by a remarkable team of dedicated individuals whose commitment to federal defendants was manifested by their provision of quality training of public defenders, their advocacy for adherence to the Sixth Amendment by the judicial system, and their sound fiscal management of their appropriation. Hats off to Cait Clarke, Pam Hamrim, Windy Venable, Martin Richey, Kim Lancaster, and the other talented DSO staff. DSO faces many challenges, including those I outlined, that confront many impoverished defendants. Most unfortunately, they also face challenges within the judiciary. Not in SDIN, but in other jurisdictions, judges interfere with representation by unreasonably limiting the scope of what defense counsel can do for their clients or by limiting the hiring of defense counsel within public defender offices, even when caseload warrants increased staffing. Some courts refuse to create a public defender office in contravention of Judicial Conference Policy and instead appoint local lawyers with limited and sometimes no criminal defense experience or training.¹⁰ And some courts fail or refuse to have counsel present at a defendant’s first appearance in court. These and other failings were chronicled in the 2017 Report of the Ad Hoc Committee to Review the Criminal Justice Act Program,¹¹ alternately known as the Cardone Report (named for the Committee’s Chair, Judge Kathleen Cardone (W.D. Tex.), with whom I had the honor of serving on DSC).

Judicial Conference Policy was changed in response to the Cardone Report based on recommendations from DSC. However, a recently completed study by the brilliant Dr. Margaret S. Williams and other talented researchers at the Federal Judicial Center concluded that many recommendations adopted by the Judicial Conference were either not implemented by courts, and that most of the

10. See Charles Bethea, *Is this the Worst Place to Be Poor and Charged with a Federal Crime?*, THE NEW YORKER (Nov. 5, 2021), <https://www.newyorker.com/news/us-journal/is-this-the-worst-place-to-be-poor-and-charged-with-a-federal-crime> [https://perma.cc/MG87-KMRW].

11. CARDONE ET AL., AD HOC COMMITTEE TO REVIEW THE CRIMINAL JUSTICE Act (2017), available at https://cjastudy.fd.org/sites/default/files/public-resources/2017-final-report-ad-hoc-committee-review-cja/ad-hoc-report-june-2018hyperlinked_1.pdf.

recommendations the Judicial Conference did not adopt, should be.¹² Significantly, in December of 2024, the Committee on Defender Services reported to the Judicial Conference of the United States that it “endorsed, in concept, an independent federal public defense program within the judicial branch but outside of the governance of the Judicial Conference and the AO.”¹³ This is a bold move by my DSC colleagues, and I admire their integrity and courage in making this recommendation. I note the federal judicial system in no way interferes or provides oversight to the operations or litigation strategies of the prosecutors in the United States Attorney’s Office. Nor should it.

Many of my DSC colleagues have become treasured friends and role models from whom I learned much. During most of my DSC service, the committee was chaired by Judge Raymond Lohier of the Second Circuit. Judge Lohier is a masterful leader of great patience, perseverance, and passion. Chief Judge Landya McCafferty (D.N.H.) has become another “sister-in-law” and her weekly texts delight and inspire me. Finally, during my time on DSC, I came to know and be awed by then-Judge Ketanji Brown Jackson, who, when joining the committee, was a District Judge for the District of Columbia. She soon ascended to the United States Court of Appeals for the District of Columbia Circuit, and ultimately to the Supreme Court of the United States. Justice Jackson is a strategic thinker, a master communicator, and a delightful human being. I am amazed to call her a friend and thrilled she will be speaking in Indianapolis this summer.¹⁴

SDIN is well served by a highly competent Federal Community Defender Office (“IFCD”), led by its nationally renowned Chief Defender, Monica Foster. IFCD provides quality, reliable representation to the clients it serves, and both the Assistant United States Attorneys and the judges of this Court are grateful for their vigorous and quality representation. They are well aware of the challenges faced by their clients and do great work in not only sharing their clients’ issues and struggles but also proposing rehabilitation plans in an effort to better their clients’ chances at success and reducing recidivism.

Conclusion.

I have no particular judicial philosophy other than to thoughtfully consider the issues before me, find the facts fairly, and research and follow the law as

12. See WILLIAMS ET AL., EVALUATION OF THE INTERIM RECOMMENDATIONS FROM THE CARDONE REPORT (2023), https://cjastudy.fd.org/sites/default/files/news/Evaluation-of-the-Interim-Recommendations-from-the-Cardone-Report_9.7.23_NoID.pdf.

13. Nate Raymond, *US Judicial Panel Endorses Independence for Federal Public Defenders*, REUTERS (Dec. 19, 2024), <https://www.reuters.com/legal/government/us-judicial-panel-endorses-independence-federal-public-defenders-2024-12-19/>.

14. For event details, visit: *Lunch with U.S. Supreme Court Justice Ketanji Brown Jackson*, INDIANAPOLIS BAR ASSOC., <https://www.indybar.org/?pg=Events&evAction=showDetail&eid=299831&evSubAction=listMonth&calmonth=202507>.

justice requires. My goal in every endeavor for the good of the justice system has been to produce a deliverable that can be used by other judges and to make friends. A few appellate reversals aside, I am content.