

THE HONORABLE KEVIN T. DUFFY: A GREAT JUDGE WITH A SENSE OF HUMOR

*The Honorable John F. Keenan**

When I think about my revered late colleague, which is often, I recognize that in my ninety-two years, I have never had a closer, more loyal, or truer friend than Kevin Thomas Duffy. We first met in the spring of 1983 before I was a member of the judiciary. It was at a dinner held by the law school where Kevin was the Toast Master and featured speaker on behalf of the honoree—me. Although we didn't know each other then, he had done his research and learned of my many peculiarities and eccentricities. In his speech, he delivered the funniest roast that I have ever heard. It was as though we had known each other for our whole lives.

Everything he said was true and all of it was done with great taste and in good humor.

Two examples stand out. He told of my first jury trial as an Assistant District Attorney, in which the defendant was acquitted in forty-five minutes. He let the audience know that I had been playing golf ever since I was thirteen years old and that in all those years, I had only broken one hundred once, and that was when my playing partner conceded every putt under ten feet.

In October 1983, when I did join the Southern District Court, Kevin was trying the Brinks robbery case in which an armored truck and its guards were robbed in Rockland County. Two police officers and a Brinks guard were killed in the holdup and another guard was shot and badly injured. The trial was long, complicated, difficult, and hotly contested. During it, Judge Duffy found the time to take a recess, come to my new chambers and congratulate me on my appointment. He offered me the most cogent and practical advice on what to do and how to behave as a judge. He reminded me not to fear being reversed by higher courts, just to do my best and to recognize that the only judges not reversed never really decided anything.

Kevin presided over several of the most important and famous trials in the history of our country. He served on the Southern District of New York for forty-four years, one of the longest terms ever served in the 233 year history of the court.

Among his trials was the Gambino organized crime family case, which he tried in 1985 and 1986. During that trial, the lead defendant, Paul Castellano, the head of that Mafia gang, was gunned down in front of Spark's Steakhouse

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on East 46th Street in Manhattan, by order of the infamous mobster, John Gotti. Somehow the Judge avoided a mistrial in spite of the Castellano killing. All defendants were convicted and their convictions were affirmed.

There were two separate trials of Al Qaeda terrorists who first bombed the World Trade Center in 1993. There were two trials because the bombers were arrested at widely different times. Again, all defendants were convicted and their convictions were affirmed. Among them was their leader, Ramzi Ahmed Yousef. A mildly amusing sidelight of the Yousef prosecution was that the assigned lawyer at his arraignment on February 9, 1995, was an Orthodox Jewish attorney who wore a yarmulke to court. Yousef was amazed that a Jewish lawyer would be assigned to represent him. Judge Duffy relieved him and appointed non-Jewish lawyers to represent him.

There were death threats because of these terrorist trials and Judge Duffy and his wife, Irene, herself a state judge, were placed under a 24 hour, all year, everywhere they went, guard by a U.S. Marshals team. This lasted for over ten years and was a tremendous burden on their lives and privacy. They endured it in good humor.

The Judge had a wicked sense of humor and did not hesitate to display it. Back in 1987, *The New York Times* ran a feature story about the sentencing proclivities of the judges in the Southern District.¹ There were then, as I recall, a total of only twenty-four of us presiding over criminal cases. In the story, five of us were called lenient, five were dubbed as harsh, and most of the remaining were labeled normal. One was denominated as erratic by the *Times* reporter.

That one who was judged to be erratic was Judge Kevin T. Duffy. Riding on the subway to court, the Judge had read the article. When he arrived at Foley Square, instead of going to his chambers, he went immediately to the press room, strode to the desk of the reporter, stood over him as the fellow sat there (remember the Judge was well over six feet tall and well built). "I demand an apology," said the Judge. The reporter weakly responded, "well, lawyers say you are erratic." "No," exclaimed Duffy, "they said erotic, not erratic." Saying no more, the Judge turned and walked out, leaving the amazed journalist sitting there.

During one of the Judge's lesser-known trials, the following occurred. Defense counsel was difficult, impolite, loud, and testy. In the middle of a cross-examination, he asked to approach the bench. When he arrived, he said to the Judge, "you called me a son of a bitch in front of the jury." Kevin immediately declared a recess and had counsel on both sides, his law clerk, the U.S. Marshal, the courtroom deputy, and the court reporter retire to the robing room and the following occurred on the record.

"Defense counsel claims I called him a son of a bitch in front of the jury. Did I?" The Judge asked the U.S. Marshal. "No," said the Marshal. To the

1. Arnold H. Lubasch, *Judge-Shopping in Federal Court: Lawyers' Quest for Leniency*, N.Y. TIMES, Mar. 4, 1987, at B1.

law clerk, the courtroom deputy, and the Assistant U.S Attorney, he asked each, in turn, the same question. “No,” they all replied.

Next, he turned to the court reporter: “Do you take down everything that is said in court by the participants?” “Yes,” answered the court reporter. “Did I call defense counsel a son of a bitch in front of the jury?” “No,” the court reporter responded. “See,” said the Judge, “I may have thought it, but I never said it.” The trial continued.

Born in 1933 to Irish immigrant parents, the Judge died in April 2020 of the Coronavirus. The Judge proudly graduated from Fordham College in 1954 and was a graduate of our law school evening division in 1958. Judge Duffy clerked on the Second Circuit for the Honorable Edward Lumbard and became an Assistant U.S. Attorney. He was Assistant Chief of the Criminal Division. Private practice followed, from 1961 to 1969, and he became Regional Director of the Securities Exchange Commission under William Casey until 1972 when he joined the Southern District.

Kevin Duffy was one of the most decent human beings that ever graced us with his presence. He was as honest as the day is long. He was the father of three sons: Kevin Jr., Gavin, and Patrick, who sadly predeceased him, and a daughter Irene. He was a proud grandfather.

He adored his loving wife, Irene, of sixty-four years, who graduated from Fordham Law in 1957. They were engaged during their years of law school. Irene was also a judge. She served on the New York State Supreme Court with great distinction for over twenty years. Kevin so revered Irene that he referred to her as “my wife, the R.J.” as in “real judge.”