

A TRIBUTE TO CHIEF JUSTICE GERALD VANDEWALLE

For sixty-four years of service to the State of North Dakota, the NORTH DAKOTA LAW REVIEW reverently dedicates this issue to Chief Justice Gerald VandeWalle.

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*Governor Doug Burgum**

From twenty-seven years as Chief Justice—the longest serving in North Dakota history—and forty-four years on the North Dakota Supreme Court, to sixty-four total years of service to the State of North Dakota, Justice Gerald VandeWalle has a remarkable record of service that will never be matched, and one that inspires all of us as North Dakotans.

Through it all, he always served with such humility, a credit to his upbringing on the family dairy farm near Noonan. He asked us to call him Jerry, but we have a hard time thinking of him as anything but Chief Justice because he embodied what the role should be.

On January 31, 2023, on his last working day at the Capitol, some of our team from the Governor’s Office had the pleasure of walking down to the Judicial Wing and visiting with Justice VandeWalle.

I presented him with a gift of an embossed leather case with a set of playing cards inside for bridge because he’s a life master bridge player and a note, which stated:

Please accept this gift embossed in your honor. I hope card-playing still appeals to you, and I’m certainly not one to judge your card-playing abilities. As you cross the bridge into retirement, we hope you will find supreme joy and discover that the retired life suits you well. While we can never know what hand life will deal us, we can be certain that your dedication and years of service will never be trumped. Like a diamond, it seemed like you would be here forever, and there would have been no objection. You had fairness and compassion in spades. You weren’t afraid to break out the club if necessary. And, as you can see from this full house, you certainly won our hearts. I guess you discovered the trick to a sustained successful career, and now it’s time to adjourn and write the first sentence in the next chapter of your story. In my opinion, you are one of a kind. On behalf of all North Dakotans, thank you, and we wish you all the best.

Congratulations again to Justice VandeWalle on his retirement. North Dakota is a better place and will always be a better place because of his service to our great state.

* Doug Burgum currently serves as the Governor of North Dakota.

*Attorney General Drew H. Wrigley**

The honor of meeting Chief Justice Vandewalle back in 1992 has only been surpassed by the privilege of subsequently becoming acquainted, then friends, and then dear friends with him over the ensuing three decades.¹

Some years back while I was serving as Lieutenant Governor, my friend Mike Heavican called. Mike and I served together as United States Attorneys, and he was calling in his then-new capacity as the Chief Justice of the Nebraska Supreme Court. He was embarking on a court consolidation project, and everyone he spoke to around the nation kept urging him to contact Chief Justice Vandewalle up in North Dakota. “Know him?” Mike asked. I assured Mike that he’d been guided wisely by his counterparts across America. Chief Justice Vandewalle is indeed an experienced and capable justice, administrator, and special person. So many of us have stories of Justice Vandewalle’s reach and influence across this nation. He’s such a treasure.

The Chief and I were first introduced by my dad. The two of them grew up near each other—they even share a birthday. We were attending Governor Schafer’s Inauguration, and I was just about to move to Philadelphia, where I had taken a job as an Assistant District Attorney. Justice Vandewalle seemed genuinely interested in talking about what I was going to be doing in Philadelphia and what I was looking for in my legal career. I couldn’t help but look around the room at all the important people he should probably be speaking with before me. But that’s not his way. After we had talked awhile, he said, “I bet we’ll see you back here someday.” Well, in fact that came to pass. The Chief and I intersected somewhat regularly while I served as United States Attorney, and I was—and remain—so awestruck by his humble nature while he was in the midst of the most impactful legal career in our history. He continues to impact so many institutions, and so very many people, in so very many ways. Years later, about three weeks after I had been sworn-in as Lieutenant Governor, I walked into this very hall on a Saturday afternoon, accompanied by my daughter Quinn who was ten at the time. I looked down to the end of the hall and spotted the unmistakable silhouette of the Chief. Quinn being Quinn didn’t hold back, hollering down the hall: “Hi, Chief!” “Hi, Quinn!” came the reply. He’d met her just one time, three weeks earlier during my swearing-in. Quinn grew about two feet taller that day; she was in

* Drew H. Wrigley currently serves as the Attorney General of North Dakota.

1. The comments below are adapted from those I delivered in the Memorial Hall of the Capitol on March 28, 2023, during the retirement celebration event honoring my cherished friend, Chief Justice Vandewalle.

the presence of his goodness and care, and he remembered her name. He made her feel special. You have all experienced that, too, from this man. Chief, of the great many special qualities you possess, making people feel important in your presence and your friendship is one of them for sure.

The Chief has often told me his favorite job he ever had was serving as Chief Deputy Attorney General of North Dakota. When I selected a new Chief Deputy last year, Chief VandeWalle was kind enough to agree to come to the office and administer the oath to Claire Ness, which he did from memory by the way—shameless show-off. Afterward, we all sat down and had coffee and an interesting conversation, as we have several times since. Those are very special times. He is plenty nice, so that's a plus, but there is so very much more. He is a storehouse of historical information and reservoir of legal knowledge. He has a clear-eyed administrative, tactical, and—dare I say—political mind, all among his many gifts.

We all know a lot of lawyers who become known, some will even become liked, more who are just tolerated, but really there are none—and I am not young anymore, so I can say this with some authority—there really are none more revered than the Chief. None that I have known in my life are more deeply respected, and none that I can think of more universally loved.

For my last meeting as Lieutenant Governor, I asked to meet with Chief Justice VandeWalle. I walked into his chambers at around five o'clock in the afternoon and he asked, "Drew, is everything okay? How can I help you?" I assured him everything was just fine. I just wanted this to be the last thing on my calendar: to meet with the Chief.

Some time before all of that, there was the day that Governor Jack Dalrymple decided he was going to place our Chief Justice in the Theodore Roosevelt Roughrider Hall of Fame. The Governor obviously thinks a lot of the Chief, but he knew what an honor it would be for me to share that news. He looked down the table and said, "Drew, why don't you go down and let the Chief know." That was a highlight of my years as Lieutenant Governor, informing the Chief that the Governor was placing him in the Theodore Roosevelt Hall of Fame. I cherished that opportunity to share that with him and to see his reaction.

The Chief is not exactly the world's greatest at listening to people sing his praises. I have noticed that across the years. However, then as now, I love you, Chief. The whole Wrigley family loves you. Thank you for your service to our state.

*Judge Daniel M. Traynor**

HONORING CHIEF JUSTICE GERALD W. VANDEWALLE UPON HIS
RETIREMENT FROM THE
NORTH DAKOTA SUPREME COURT

Gerald VandeWalle was appointed to the Supreme Court on August 15, 1978.² It happened to be his birthday. I was eight years old at the time. Twenty years later, he was chief justice, and I had the privilege of serving as his law clerk.

It was a great first job for a young lawyer. “You can easily judge the character of [a man] by how [he] treat[s] those who can do nothing for [him].”³ And working for Chief Justice VandeWalle imbued in me a deep appreciation for the example of a good man and a great judge. We celebrate and honor that great judge who is a person who carefully maintained his role as a judge.

This North Dakota State Capitol building contains this Memorial Hall, encouraging a meeting point between the executive and legislative branches of state government. It is in that way that law is made.

Although it was not initially designed this way, Chief Justice Ralph Erickstad’s Judicial Wing placed the judicial branch at the far east end of the Capitol, about as far away from the legislature as possible. Perhaps that design was not entirely by accident—it is a reminder of the great temptation on the part of judges to become legislators and how that role should be as far from proper as one end of this building is from east to west.

I’ll give you an example of what Gerald VandeWalle thought of that when he served on our Supreme Court. Article I, Section 9 of the North Dakota Constitution says, “Suits may be brought against the state in such manner, in such courts, and in such cases, as the legislative assembly may, by law, direct.”⁴ That provision is clear. In fact, in 1991, Chief Justice Erickstad wrote a majority opinion that reaffirmed the decades-long holding of our Supreme Court that state sovereign immunity is a matter expressly

* The Honorable Daniel M. Traynor is a United States District Court Judge for the District of North Dakota.

2. This is an adaption of the remarks I gave at Justice VandeWalle’s retirement celebration on March 28, 2023.

3. QUOTATIONS FOR PUBLIC SPEAKERS: A HISTORICAL, LITERARY, AND POLITICAL ANTHOLOGY 34 (Robert G. Torricelli ed., 2001) (attributing the statement to an anonymous source).

4. N.D. CONST. art I, § 9.

entrusted to the legislature, upholding the plain meaning of that constitutional provision.⁵

Just three years later, with a different makeup on our Supreme Court, state sovereign immunity was abrogated. The express provision in our constitution was cast aside as nothing more than a “common-law doctrine . . . [that] no longer meets the needs of [our] time.”⁶

Chief Justice VandeWalle dissented and said, “I shudder when I think of how many other Constitutional provisions (protections?) are rooted in ‘common-law doctrine’ . . . or are, in the opinion of a few judges, ‘outdated [and] no longer warranted.’”⁷ Chief Justice VandeWalle warned an unprincipled judiciary who contrives theories to overrule precedent and set aside constitutional provisions with which it does not agree is “totalitarian” and “dangerous.”⁸

Judges are given lifetime tenure or extended terms with the understanding that we will prudentially exercise our unaccountable judicial power. In a state like ours where the legislature and citizens can amend the constitution so easily, the words in the constitution should mean what they say.

In many cases, judges are celebrated for their landmark decisions that make the right call at the right time. Chief Justice VandeWalle has had his share of those. From *North Dakota ex rel. Heitkamp v. Quill*⁹—where he was twenty years ahead of the United States Supreme Court—to opinions on election law and school funding.

But Gerald VandeWalle’s career should be exemplified as one where he showed the humility to exercise judicial restraint—where raw judicial power to define rights was held back in deference to the political branches that are more accountable to the people. That is the hallmark of Chief Justice Gerald VandeWalle, the good man and great judge we honor today. He is a person of great integrity and deep Catholic faith. North Dakota is so fortunate to have had his example of leadership and humility on our Supreme Court.

On behalf of the Federal Judiciary, I would also like to present a letter from John Roberts, Chief Justice of the United States. It reads:

5. See *Leadbetter v. Rose*, 467 N.W.2d 431, 434 (N.D. 1991), *overruled by* *Bulman v. Hulstrand Constr. Co.*, 521 N.W.2d 632, 636-37 (N.D. 1994).

6. *Bulman*, 521 N.W.2d at 637.

7. *Id.* at 641 (VandeWalle, C.J., dissenting) (quoting *id.* at 639 (majority opinion)).

8. *Id.* at 642 (“[E]ven more totalitarian and infinitely more dangerous is an unprincipled judiciary who contrives theories to overrule precedent and set aside constitutional provisions with which it does not agree.”).

9. 470 N.W.2d 203 (N.D. 1991) [hereinafter *Quill I*], *rev’d*, *Quill Corp. v. North Dakota ex rel. Heitkamp*, 504 U.S. 298 (1992) [hereinafter *Quill II*], *overruled by* *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080, 2099 (2018) (concluding the United States Supreme Court’s decision in *Quill II* was “unsound and incorrect” and affirming Chief Justice VandeWalle’s original ruling in *Quill I*).

Dear Chief Justice VandeWalle,

I am pleased to be among your judicial colleagues congratulating you on your upcoming retirement after more than 44 years as a member of the North Dakota Supreme Court, including more than a quarter century as Chief Justice. With your steady pace, profound humility, and deep and enduring commitment to public service, your career has exemplified important ideals of judges in our country.

Thank you for your lifetime of dedication to the rule of law and your many years of contributions to the courts, including as President of the Conference of Chief Judges and as a member of the Federal-State Jurisdiction Committee of the Judicial Conference. I extend my best wishes for your good health and happiness in your next chapter.

Sincerely, John Roberts¹⁰

*Justice Carol Ronning Kapsner**

THE CHIEF: HE HAS ALWAYS BEEN EVERYTHING, EVERYWHERE, ALL THE TIME

From November 1998 through July 2017, I sat to the immediate right of the Chief Justice at all judicial and administrative conferences of the North Dakota Supreme Court. It was an advantageous position to get a perspective on the man who served the state as our Chief Justice during that whole period. That was before COVID-19 when the court did its work in person, meeting in conference after each oral argument—which was live—and meeting weekly to handle the administrative work of the court system. The Chief Justice is the administrative head of the judicial system and can run the courts by fiat. But Gerald VandeWalle, whom everyone called “the Chief,” chose to use the Supreme Court like a board of directors, getting the feedback of the other four justices for broad administrative matters. It was representative of his wise and inclusive approach.

A Chief Justice gets a small salary increase over the other justices for a huge amount of work the other four do not do. While the broad matters of administration were brought to the administrative conferences, the Chief was the overseer of all those other matters that affected the entire system but were

10. Letter from John Roberts, C.J., U.S. Sup. Ct., to Gerald W. VandeWalle, C.J., North Dakota Sup. Ct. (Dec. 15, 2022) (on file with author).

* The Honorable Carol Ronning Kapsner served as a North Dakota Supreme Court Justice for eighteen years before retiring in 2017.

not brought to the court. He spent countless hours on those matters in addition to his judicial work. The result was that Gerald VandeWalle knew the justice system and the people who worked in it. He knew how well they were performing and how they were affected by changes made in their work world. I once described Gerald VandeWalle as the best macro and micro leader I had ever known.

On the micro side, Chief Justice VandeWalle knew the people he worked with. He knew their family situations; he shared in their joys and sorrows. This was true not just of the people in the Bismarck office but of others around the state who worked for the court system. His strong interpersonal skills had to be the result of his background living near, working in, and being educated in the small town of Noonan, North Dakota. When the Court traveled, as it did to hear cases in high school gymnasiums so that students could see it at work, the Chief knew someone in every community to which the Court traveled.

A court that works as closely as the Supreme Court did in the pre-COVID days is truly a collegial body. This is not to say that it is a body always in total agreement. Disagreements arose and tempers flared (including the Chief's) but the goal was always resolution, and the Chief guided the discussion toward that resolution.

The judicial work of the court highlighted the institutional memory of Gerald VandeWalle. He was fiercely protective of the institution. He had participated in so much of its relatively recent history, both as an advocate from the Attorney General's office and as a justice on the court. It was not unusual to have him support an argument in conference by saying, "In a case that came in front of Judge Bede, this court decided . . .," and then pull the volume off the shelf in which the case appeared. His memory for precedent was astonishing.

Gerald VandeWalle is also fiercely loyal to those institutions which he regards as fostering him as a person and his values, particularly the University of North Dakota and the law school. Because the court travels regularly to hear cases before students at the law school, to participate in classes, and to hear moot court cases, the Chief always considered it an opportunity to take the temperature of legal education in the state and to measure it against national trends. The university recognized this loyalty with the UND Sioux Award in 1992, and the law school acknowledged his service with an honorary Doctor of Letters in 2015.

On the macro side of his leadership, Gerald VandeWalle was always concerned that the North Dakota judiciary be involved in and, indeed, have an influence on the national judicial scene. North Dakota should never be a parochial enclave but should interact with, and understand, what was happening with judiciaries throughout the nation.

Consequently, trial judges and justices on the North Dakota Supreme Court were sent to study at national learning centers. Justice Crothers, during my tenure and undoubtedly still, was and is a frequent instructor at the National Judicial College. Our professional staff was also expected to participate in their respective organizations and frequently rose to lead their organizations. Penny Miller, Clerk of Court during much of Vandewalle's terms, became the President of the national organization of Supreme Court Clerks of Court. Many of our trial court personnel were similarly honored for their work.

In his belief that North Dakota judges and court personnel should be "out there" in the larger judicial world, Chief Justice Vandewalle was our leader and our example. He did it all. He served on and chaired committees of the American Bar Association, the National Center for State Courts, the Judicial Conference of the United States, the Conference of Chief Justices, and before he became our Chief Justice, the North Dakota Judicial Conference. He chaired the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association; he chaired the Federal-State Tribal Relations Committee of the Conference of Chief Justices. He was President and a member of the Board of Directors of the Conferences of Chief Justices. He chaired the National Center for State Courts. He served as Jurist-in-Residence at Georgetown University Law Center and was inducted into the Warren E. Burger Society. Although these commitments represented a tremendous amount of time, none of the services lessened the amount of work here in North Dakota as Chief Justice. To recognize that service here in the state, in 2015, in a joint session of the Sixty-Fourth Legislative Assembly, Chief Justice Vandewalle was presented with the Theodore Roosevelt Rough Rider Award, which is the state's highest honor for its citizens.

Not only did he serve, but in virtually every one of those capacities, his service was recognized by an award. The North Dakota Bar Association presented the Chief with its Distinguished Service Award. He received the American Inns of Court Professionalism Award for the Eighth Circuit Court of Appeals. The National Center for State Courts recognized the Chief's service with the Paul C. Reardon Award.

The American Bar Association Section of Legal Education and Admission to the Bar presented him with the Robert J. Kutak Award. The Kutak Award is given by this section of the ABA to someone who champions collaboration between the legal academy, the practicing bar, and the judiciary. The Chief steered me into service in this section of the ABA, and I served on both the Standards Review Committee, which writes the standards that control law schools and on the accreditation committee for law schools.

Knowing that the Chief's service perfectly fit the criteria for the Kutak award, and knowing by then the people who would have influence over the

award, I began a series of phone calls to law school deans, chief justices from other states, bar examiners, and people who served on ABA committees. Not one refused my phone call and not one expressed a second of hesitancy when I asked for a letter of support for the award. Most of the phone calls ended with “say hi to Jerry,” a message I couldn’t deliver then because he would know what I was up to. The responses were typical because Gerald VandeWalle was so well known that a person could not travel anywhere in the country with other judges and mention you were from North Dakota without hearing, “Oh, you must know Jerry VandeWalle. Say hi.” Everywhere people felt a connection with him and became friends.

In 2015, Chief Justice VandeWalle received another extremely significant award: the Harry L. Carrico Award of Judicial Innovation, which is given by the National Center for State Courts to someone who has inspired, sponsored, promoted, or led an innovation or accomplishment of national significance in the field of judicial administration. Chief Justice VandeWalle’s recognition was for the awareness and protection of the elderly from physical abuse and financial exploitation. What was particularly unusual about this award was sixteen state chief justices and twenty-three state court administrators, on their own initiative, nominated him for the award. The Chief’s influence was widespread.

Gerald VandeWalle is a leader who saw the big picture *and* the people in it. He worked tirelessly to improve that picture. Those who worked alongside him knew that he was also fun to be with and could be mischievous. The picture remains in my head of those times you could see the mischief rising to the surface; he would get a gleam in his eyes, rub his hands together, and then say the most outrageous things. Undoubtedly, it is what others throughout the country saw and why he made friends everywhere.

But why all this work? Why all this time spent? Gerald VandeWalle became a justice in 1978 and Chief Justice in 1993. He remained a justice until 2023. The essential job of a judge or justice didn’t change at that time: apply the law and precedent to decide a dispute. But, during this period, *everything* surrounding that essential task changed radically. How lawyers were educated and how they were tested to be admitted to the bar was different. How lawyers researched and communicated with each other and with the courts, changed. These changes were reflected in how the courts communicated with litigants and the public. Professional administrators oversaw all the workings of the court system other than judicial decision-making. Continuing education for judges and all court personnel became standardized. The court system began offering services to reduce conflict in domestic cases, such as mediation where custody was involved. Guardianships were provided, and persons were trained to act in that role. Drug courts were initiated to provide an alternative path to drug prosecution.

It is nearly impossible to think of any aspect of the judicial system, other than the essential act of judicial decision-making, that didn't change radically during this period. Gerald Vandewalle wanted to be a part of this process of change. He was part of the process to make sure the changes made sense and were good for North Dakota. Hail to the Chief! He did it all.

*Justice Lisa K. Fair McEvers**

THE CHIEF, THE MAN, AND THE MYTH

I am glad to have the opportunity to honor Justice Vandewalle upon his retirement.¹¹ Despite icy roads and blustery weather on March 28, 2023, Memorial Hall was packed to the gills with justices, judges, legislators, lawyers (including many of Justice Vandewalle's former law clerks), friends, family, and state officials—including Governor Doug Burgum—for Justice Vandewalle's retirement celebration. He was celebrated, serenaded, and greeted warmly by the hundreds in attendance. Many of Justice Vandewalle's accomplishments were highlighted in the program.¹² I noticed the small font that had to be used to fit them all in. Here are a couple more things you might not know about Justice Vandewalle: he graduated first in his class in law school, and, despite having to run for his seat five times, he only had one contested election.

* The Honorable Lisa K. Fair McEvers currently serves as a justice on the North Dakota Supreme Court.

11. I am pleased the NORTH DAKOTA LAW REVIEW provided me an opportunity to acknowledge, in writing, the more than forty-four-year tenure of Gerald W. Vandewalle on the North Dakota Supreme Court. While some might say his retirement celebration at the North Dakota State Capitol allowed him to be properly "eulogized," the weather was uncooperative and the venue too small to hold all who wanted to attend. These are my edited remarks from that celebration on March 28, 2023.

12. Only a portion of Justice Vandewalle's many achievements are reflected here. He was awarded a Juris Doctor from the University of North Dakota ("UND") School of Law in 1958, graduating Magna Cum Laude. He served as Editor-in-Chief of the Law Review and was elected to the Order of the Coif. He is a recipient of the UND Sioux Award, 1992; the North Dakota Bar Association Distinguished Service Award, June 1998; the National Center for State Courts Paul C. Reardon Award, 2003; the American Inns of Court Professionalism Award for the Eighth Circuit, 2008; the ABA Section of Legal Education and Admissions to the Bar Robert J. Kutak Award, 2009; the North Dakota Theodore Roosevelt Roughrider Award, 2015; the National Center for State Courts Harry L. Carrico Award, 2015; the National Lambda Chi Alpha Fraternity Order of Achievement Award, 2015; the UND Honorary Degree of Doctor of Letters, 2015; the University of Mary Degree of Doctor of Leadership, 2016; the North Dakota Association of Counties Excellence in Government Dedicated Partner Award, 2019; the UND President's Medal of Honor, 2020; and the UND Spirit Award, 2020. *Gerald W. Vandewalle*, STATE OF N.D. CTS., <https://www.ndcourts.gov/supreme-court/justices/geraldwvandewalle> [<https://perma.cc/MJZ4-DTSD>] (last visited Dec. 10, 2023).

I was lucky enough to know Justice VandeWalle before I went to law school and have known him for about thirty-five years. He encouraged me when I was a court employee and a law student, as he did for many others. While I was a first-year in law school, there was a large reception for the court. Over the large crowd, Chief Justice VandeWalle called out to greet me. He never made a person feel “lesser than.” We all owe him a great debt as he did so much to encourage men and women in the law to aspire to be good lawyers and judges, and to assume leadership positions in the bar, the courts, and our communities. Thank you for your leadership.

Twenty-five years ago, when I was a law clerk at the Supreme Court, rumors abounded that Chief Justice VandeWalle, who was in his mid-sixties, was going to retire. The rumor made sense since the Chief had forty years of service with the State, twenty with the Attorney General’s Office, and twenty at the Court. But Chief Justice VandeWalle was not done yet, not by a long shot. We have all been the benefactors of Justice VandeWalle’s intellect, integrity, and his long and outstanding service.

Justice VandeWalle’s attributes are many: he is kind and approachable, a good mentor, and a common-sense judge with a brilliant legal mind. He is also self-deprecating—often referring to his size fifteen shoes or his less-than-stellar singing voice. I have heard him sing—he is not that bad. He sometimes referred to us on the Court, and even retiring judges and justices, as “just babies,” but we knew he said it with affection. His perspective was fair as he has been a lawyer since before most of us on the Court were born and had been on the North Dakota Supreme Court since I was a junior in high school and at least one member of the Court was still in daycare.

Despite what some might think would be an experience gap or even a generation gap, I have found we have things in common. We often shared stories of our families, our small-town¹³ upbringings, and our faith. Over the last nine years, I often stopped by his office, and he mine, to discuss cases, mutual friends and acquaintances, and our mutual affection for UND. Justice VandeWalle has been part of many special events in my life, and I expect that is the same for many of you.¹⁴

I was interviewed last year about Justice VandeWalle. The interviewer referred to him as St. Jerry or the Archangel VandeWalle. I know better than that. He is perfectly capable of playing devil’s advocate and occasionally loses his temper, just as we all do. He is human after all. He doesn’t wear a halo, and he is not perfect, but he is close to it. He has been a master of civil discourse and a strong proponent of collegiality on the Court. Does anyone

13. Justice VandeWalle grew up on a dairy farm near Noonan, North Dakota.

14. Justice VandeWalle has been present for the swearing in of thousands of our state’s lawyers and at the investiture ceremonies for scores of judges and justices.

remember the sitcom *Everybody Loves Raymond*? Recall the family where Raymond is the golden boy, and his brother can't seem to do anything right or gain the affection of his family. That is sort of what it was like to serve with Justice VandeWalle. Everybody loves Jerry. To be with him is often to be invisible, and yet, he always made an effort to bring you into the conversation and introduce you to the folks who don't know you.

We have been so fortunate to have had Justice VandeWalle lead the judicial branch for many years with common sense and his eye for positive change that he has seen around the country. Many changes took place under his watch, but he did not bend to the winds of change for change's sake; rather, he was always trying to improve the status quo. He has been a steadfast guardian of the law, and his opinions have had a great impact on the development of the law in North Dakota and even nationally. He has been only reversed once by the United States Supreme Court—in 1992 on a taxation case under the Commerce Clause¹⁵—but he eventually had the last laugh when the United States Supreme Court reversed itself in 2018,¹⁶ so it appears he was right all along.

It is with great awe that I think of his career. His tenure is the longest in State history.¹⁷ He served on the Court with sixteen other justices.¹⁸ He authored thousands of opinions for the Court, which will stand as testimonials to his ability as a justice and as chief justice. Through them, future generations will get a glimpse of the person who was “the Chief.” The many improvements to the legal system during his tenure as chief justice are a tribute to his vision and his ability to convince others to share his vision. His vast legal experience and conversation, usually with gentle suggestions, often encouraged the rest of the Court to reexamine our positions. Former Justice William A. Neumann described Chief Justice VandeWalle as:

An excellent, gentle leader and a wonderful diplomat. Jerry understands the complexity of the position of a Chief Justice who is responsible for many things, but is really only a first among equals. He realizes he is an elected leader, who must be able to bring his supporters with him. To be effective, he has to keep that in mind, and he does.

15. *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), *overruled by* *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018).

16. *Wayfair*, 138 S. Ct. at 2080.

17. Justice VandeWalle served forty-four years, four months and eighteen days.

18. Ralph J. Erickstad, William L. Paulson, Vernon L. Pederson, Paul M. Sand, H.F. “Sparky” Gierke III, Beryl J. Levine, Herbert L. Meschke, J. Philip Johnson, William A. Neumann, Dale V. Sandstrom, Mary Muehlen Maring, Carol Ronning Kapsner, Daniel J. Crothers, Lisa K. Fair McEvers, Jerod E. Tufte, and Jon J. Jensen.

What may not be as well known to those who only saw him in the courtroom is the warmth of Jerry VandeWalle as a person. People are naturally drawn to the Chief. He is seldom alone in public. Why? He remembers people and treats everyone he meets with respect. He is met, almost universally, with admiration and affection. Justice VandeWalle spent endless hours working in his office¹⁹ and traveling on behalf of the Court.²⁰ After forty-four years and some health challenges, the workload took its toll leading to his retirement. To all things, there is a season. I will continue to treasure my friendship with him away from the bench, but I always remember Justice Gerald W. VandeWalle as a great jurist. I have had the rare opportunity to serve alongside a giant in the law, a living legend. Justice VandeWalle, thank you for your many years of service to the law, the court, the law school, the state, and, indeed, the nation. No one will ever be able to fill your size fifteen shoes. It has been an honor to stand in your long shadow—best wishes for a happy retirement.

*Michael S. McGinniss**

A TRIBUTE TO GERALD W. VANDEWALLE: A JUSTICE FOR ALL SEASONS

Even before we met, the Honorable Gerald W. VandeWalle had already impacted my professional journey, helping me make the leap from life as a practicing lawyer in Delaware to my future as a law professor in North Dakota. Before my first visit to this state in November 2009 to interview for a faculty position at the University of North Dakota School of Law, I was aware of his outstanding reputation as the Chief Justice of the North Dakota Supreme Court and his exemplary record of service and leadership in the legal profession at the national level.²¹ In preparing for my faculty candidate

19. During a severe illness, Justice VandeWalle also worked from his hospital bed.

20. Chief Justice VandeWalle served on the Conference of Chief Justices, acting as President in 2000-2001; he was a member of the Federal-State Jurisdiction Committee of the Judicial Conference of the United States, being appointed by United States Supreme Court Chief Justice William Rehnquist; he was Chair of the ABA Section on Legal Education and Admissions to the Bar in 2000-2001; and he served as a delegate to the American Bar Association's House of Delegates. *VandeWalle*, *supra* note 12.

* Professor of Law and J. Philip Johnson Faculty Fellow, University of North Dakota School of Law. B.A., Washington College, 1990, *summa cum laude*; J.D., College of William & Mary, Marshall-Wythe School of Law, 1993, Order of the Coif. The author served as a law clerk to Delaware Supreme Court Justice Randy J. Holland, who passed away in 2022. Justice Holland held Chief Justice Gerald W. VandeWalle in the very highest esteem. The author also served as Dean of the University of North Dakota School of Law from 2019 to 2022.

21. As just one example, he served as the President of the National Conference of Chief Justices from 2000 to 2001. *Gerald W. VandeWalle*, STATE OF N.D. CTS., <https://www.ndcourts.gov/supreme-court/justices/geraldwvandealle> [https://perma.cc/MJZ4-DTSD] (last visited Dec. 10, 2023).

“job talk,” I also learned that, among his hundreds of judicial opinions, he had authored an unassuming but ultimately quite influential 1986 decision by the court on the unauthorized practice of law by out-of-state lawyers.²² I incorporated a discussion of this excellent opinion into my analysis of legal ethics and multi-jurisdictional practice of law, including several hypotheticals inspired by the case. And, shortly thereafter, I received an offer to join the faculty in the fall of 2010, which I was very excited to accept.

Thenceforth, Chief Justice Vandewalle became one of my most treasured sources of professional inspiration, opportunity, and support in my new home state. In June 2011, after I had presented my Vogel Lecture on Professionalism and Legal Ethics at the State Bar Association of North Dakota (“SBAND”) Annual Meeting, he sought me out to tell me how much he appreciated and enjoyed what I shared about virtue ethics and the importance of good character in lawyers, judges, and law students.²³ Then, in January 2012, he appointed me to the North Dakota Joint Committee on Attorney Standards (“JCAS”).²⁴ By doing so, and then re-appointing me to the JCAS for two additional three-year terms, he entrusted me with a vital responsibility to serve the North Dakota bench and bar in considering recommendations about numerous new and amended rules on governance of the admission, conduct, supervision, and discipline of our state’s legal

22. *Ranta v. McCarney*, 391 N.W.2d 161 (N.D. 1986). Twelve years later, the California Supreme Court relied upon and embraced both the judgment and reasoning in *Ranta*, requiring that in-state practice of any kind by out-of-state lawyers be subject to permissions granted by state legislative or judicial authorities. *Birbrower, Montalbano, Condon & Frank v. Superior Court*, 949 P.2d 1, 8 (Cal. 1998) (quoting *Ranta*, 391 N.W.2d at 163, 165). Although then-Justice Vandewalle’s opinion paved the way, California being California, *Birbrower* jolted the national legal profession and the organized bar to attention, creating momentum for the American Bar Association (“ABA”) to create its Commission on Multijurisdictional Practice. See Stephen Gillers, *Lessons from the Multijurisdictional Practice Commission: The Art of Making Change*, 44 ARIZ. L. REV. 685, 691, 691 n.28 (2002) (discussing *Birbrower* and *Ranta*). At the end of this path for which *Ranta* had broken the ground, in 2002 the ABA adopted an amended Rule 5.5 of the ABA Model Rules of Professional Conduct. See Michael S. McGinniss, *Five Years Later: The Delaware Experience with Multi-Jurisdictional Practice*, 10 DEL. L. REV. 125, 126 (2008).

23. The NORTH DAKOTA LAW REVIEW subsequently published the substance of that Vogel Lecture as an article. Michael S. McGinniss, *Virtue Ethics, Earnestness, and the Deciding Lawyer: Human Flourishing in a Legal Community*, 87 N.D. L. REV. 19 (2011), <https://commons.und.edu/ndlr/vol87/iss1/2> [<https://perma.cc/V4ML-7RKS>]. Justice Vandewalle exemplifies the ideal of the lawyer—and judge—possessing the virtues of integrity and practical wisdom that I propose as the model for good character and a flourishing legal profession. See *id.* at 46-48, 53-56. Moreover, his lifework as a justice on the North Dakota Supreme Court amply manifests the virtues of judicial craft I witnessed in his friend and my lifelong mentor Delaware Supreme Court Justice Randy J. Holland. See Michael S. McGinniss, *Apprenticing for a Flourishing Life in the Law: The Virtues of Judicial Clerkships*, AM. INNS CT.: THE BENCHER (Mar./Apr. 2015), https://www.innsofcourt.org/AIC/AIC_For_Members/AIC_Bencher/AIC_Bencher_Recent_Articles/2015_MarApr_McGinniss.aspx [<https://perma.cc/L3XR-RY4F>].

24. See N.D. Sup. Ct. Admin. R. 47. In consultation with the other members of the court, the Chief Justice appoints half the members; the other half are appointed by SBAND. *Id.* at § 2(a).

profession.²⁵ In addition to looking for opportunities to see him in Bismarck and at SBAND's Annual Meetings, I enjoyed valued occasions to speak with him when the court would visit the UND School of Law for its annual fall visit to hear oral arguments, provide guest lectures in classes, and meet informally with students in social settings.²⁶ In reading his judicial opinions in various areas of law, my already high esteem for him as a jurist fully committed to justice under the rule of law in our state grew all the greater.²⁷

This strengthening of admiration and friendship made it all the more significant to me when, in late February 2019, after UND Provost and Vice President for Academic Affairs Thomas DiLorenzo announced my appointment as the new Dean of the School of Law, Chief Justice VandeWalle was one of the first people to congratulate me and offer his practical wisdom and support. With the 2019 North Dakota Legislative Assembly having already reached crossover and with the urgent need for immediate action to organize efforts from SBAND and alumni for seeking substantial budget increases, the power of his voice and the credence of his reputation were deeply impactful and made a major difference in our success.²⁸ As a proud alum and the legendary leader of North Dakota's legal

25. *Id.* at § 3(a). As one example, after the ABA adopted its new Rule 8.4(g) of the ABA Model Rules of Professional Conduct in August 2016, the N.D. Supreme Court referred the matter to the JCAS for its recommendations. Letter from Hon. Dann E. Greenwood, Chair, Joint Comm. on Att'y Standards, to Hon. Gerald E. VandeWalle, Chief Just., N.D. Sup. Ct. (Dec. 14, 2017) [hereinafter N.D. Att'y Standards Letter] [<https://perma.cc/3FCP-B55J>]. One of my proudest experiences on the JCAS was our decision to recommend the court's rejection of this rule for our state. *Id.* As my scholarship on the topic soon expounded, this ABA model rule constitutes an unconstitutional and unjust speech code for the American legal profession and poses distinct risks for socially conservative lawyers and academics who dissent from the viewpoints now dominant in the American legal professional and academic cultures. Michael S. McGinniss, *Expressing Conscience with Candor: Saint Thomas More and First Freedoms in the Legal Profession*, 42 HARV. J. L. & PUB. POL'Y 173, 198-249 (2019); N.D. Att'y Standards Letter, *supra* (noting JCAS members had serious concerns the ABA rule was "overbroad, vague, and imposes viewpoint discrimination" and "may have a chilling effect on free discourse by lawyers with respect to controversial topics or unpopular views").

26. *See, e.g., The Supreme Court at UND Law – The November 1-3, 2021 photos*, N.D. CTS., <https://www.ndcourts.gov/supreme-court/taking-the-court-to-the-schools/court-makes-annual-visit-to-und-school-of-law> [<https://perma.cc/SVS6-GKG3>] (last visited July 13, 2023).

27. The most significant landmark to me was his decision on a matter of fundamental human rights and justice under the law in *MKB Management Corporation v. Burdick*, 2014 ND 197, 855 N.W.2d 31 (2014). In this case, Chief Justice VandeWalle masterfully crafted an opinion that, with careful analysis of history and precedent in our state's laws, concluded there is no right to abortion in the North Dakota Constitution. *Id.* ¶¶ 22-38. Justice Dale Sandstrom concurred with this conclusion, but also said a federal constitutional question was not properly before the court as it had not been pled or tried by consent before the district court. *Id.* ¶ 170. Hence, with Article VI Section 4 of the North Dakota Constitution requiring agreement of at least four justices for a state statute to be declared unconstitutional, the court reversed the district court's injunction that had blocked enforcement of a state health and safety law regulating medication abortions. *Id.* ¶¶ 1, 4.

28. *See* Michael S. McGinniss, *Moving Forward for a Great Future at UND Law*, THE GAVEL (St. Bar Ass'n of N.D., Bismarck, N.D.), Summer 2019, at 26-27, <https://viewer.joomag.com/summer-2019-summer-2019-gavel/0516350001566917179> [<https://perma.cc/5ECU-S4FB>].

profession for decades, he has long understood and advocated how essential the work done at the UND School of Law is to our state and its people, providing our future lawyers and judges with an excellent education that prepares them for law practice and effective service to clients and pursuing justice in our courts.²⁹

On a personal level, my most meaningful memories of the Chief have been tied to our shared Catholic faith. He has been a devoted member of the Church throughout his long life, whereas I am still quite new to the faith, having entered the Church in 2018.³⁰ I fondly remember participating alongside Chief Justice Vandewalle in the Red Mass offered by the Diocese of Bismarck during the 2019 SBAND Annual Meeting, just before I officially began my deanship.³¹ I also gratefully recall conversing with him about my journey to the Catholic faith and how precious and sustaining it has been for me, as I know it has been for him for so many years. Indeed, the fruits of the Holy Spirit are manifest in so many aspects of his life, including his kindness, humility, patience, self-discipline, generosity, and caring concern for the good of others.³²

One of the greatest joys I experienced as the dean was the opportunity to successfully advocate with UND for the renaming of our historic third-floor courtroom as the “Gerald W. Vandewalle Courtroom.” In collaboration with DeAnna Carlson Zink, CEO of the UND Alumni Association and Foundation (“UND AA&F”) and her team, we received enthusiastic approval for this

29. See Leanna Ihry, *Service Beyond Measure*, UND ALUMNI MAG. (UND Alumni Ass’n & Found., Grand Forks, N.D.), <https://express.adobe.com/page/XvDs5ONE0n6k8> [<https://perma.cc/6MQE-ZEN4>]. (“Justice Vandewalle graduated first in his UND Law class of 1958, and after admission to the bar that July, he . . . [began] his long and prolific career of service. ‘My education at the UND School of Law really provided me with the solid education I needed to jumpstart my career. I wouldn’t be where I am today if it weren’t for UND,’ he said.”).

30. See McGinniss, *supra* note 25, at n.a.1.

31. “The Red Mass has a rich history. Beginning in England during the Middle Ages and continuing even through World War II, the entire bench and bar attended the Mass at the opening of the Court’s term.” *The Red Mass*, CATH. LAWYERS’ GUILD OF THE ARCHDIOCESE OF BOSTON, <https://www.clgb.org/the-red-mass> [<https://perma.cc/8GST-DV4Q>] (last visited July 13, 2023).

The Red Mass is celebrated in honor of the Holy Spirit as the source of wisdom, understanding, counsel and fortitude, gifts which shine forth preeminently in the dispensing of justice in the courtroom as well as in the individual lawyer’s office. Other blessings that are commonly requested to prevail in the minds, offices, and court rooms are Divine strength, wisdom, truth, and justice. Today, the Red Mass is attended by judges, lawyers and court officials of all faiths asking God to bless, strengthen and enlighten all servants of the law and all people of faith so that in cooperation and mutual trust, we may effectively achieve justice.

Id.

32. For professional and personal stories touching on his humanity and his virtues, see Michael L. Wagner, *Chief Justice Gerald W. Vandewalle: Stories of a Man Who Has Touched Many*, 84 N.D. L. REV. 973 (2008), <https://commons.und.edu/cgi/viewcontent.cgi?article=1334&context=ndl>. See also *Galatians* 5:22-23 (NRSVCE) (“[T]he fruit of the Spirit is love, joy, peace, patience, kindness, generosity, faithfulness, gentleness, and self-control. There is no law against such things.”).

very well-deserved honorary naming, which I had the privilege of announcing at a ceremony in his honor at the North Dakota Heritage Center and State Museum in Bismarck in February 2020.³³ I vividly recall Justice VandeWalle sitting close by at the table of honor with his family when I made these remarks:

Good evening. As Dean of the UND School of Law, it is such a privilege to be with you this evening to honor Justice VandeWalle, a magnificent jurist who is legendary both here in North Dakota and throughout our nation, and a special man who has meant so much to me professionally and personally. When I joined the UND Law faculty ten years ago, Chief Justice VandeWalle warmly welcomed me into our legal community and supported and encouraged me in every aspect of my work. He is a man of exemplary virtue and unique gifts for leadership, who has selflessly dedicated himself to serving the people of North Dakota with his legal knowledge and skills, most prominently as the Chief Justice of our Supreme Court for 27 years.

And, as DeAnna shared, Justice VandeWalle is a proud graduate of the UND School of Law, Class of 1958. In the more than 60 years since then, he has been an unwavering supporter of UND Law and its core mission to educate students for professional service in the law and law-related professions in North Dakota and our region. I cannot begin to adequately recount the many ways in which he has generously contributed his time and talents to the law school. Each and every year, I have witnessed his devotion to spending time with our students through classroom visits and other presentations. His law clerks each year have been drawn from our best and brightest graduates, and they receive such amazing experiences through his mentorship and example of personal and professional integrity. He has also been an extraordinary advocate for the School of Law and its pivotal importance for our state as a critical resource for educating its future lawyers and judges.

DeAnna mentioned that I have a special announcement. And I am very excited to now share this wonderful news with all of you. For decades under Justice VandeWalle's stellar leadership as Chief Justice, the North Dakota Supreme Court has annually visited the law school to hear oral arguments in its cases and to judge the final round of our moot court competition, both of which are tremendous educational opportunities for our students. The forum in which the

33. See Ihry, *supra* note 29.

court has heard these arguments is the large, traditional-style courtroom on the third floor of the School of Law, a richly historic setting that is the home for many student activities and law school events throughout the academic year. And it is my pleasure to announce, in gratitude for all that he has done in service to the State of North Dakota and its law school, that the University of North Dakota will rename that beautiful courtroom to honor Justice VandeWalle. It is a recognition that is most fitting and so greatly deserved. I invite you to join me in a round of applause to congratulate him for this enduring recognition in a courtroom that will host generations of future students, lawyers, and judges at the UND School of Law.

And now, from my heart . . . Chief: I thank you for everything. I am truly proud to be the Dean of the School of Law you have loved so long and so deeply. And thank you to everyone for coming this evening to honor Justice VandeWalle and celebrate all he means to each of us. God bless you.³⁴

Following this announcement, with some delay due to impacts on campus events in response to the COVID-19 pandemic, at UND Homecoming in October 2021, we hosted a dedication ceremony in the re-named Gerald W. VandeWalle Courtroom.³⁵ He was honored there with remarks that included praises of his achievements offered by UND President Andrew Armacost, UND AA&F CEO DeAnna Carlson Zink, and his colleague North Dakota Supreme Court Justice Lisa Fair McEvers.³⁶

When Justice VandeWalle announced his retirement from the court in November 2022, the UND School of Law issued a statement in recognition of the occasion:

The University of North Dakota's School of Law, on the occasion of his announced retirement date of Jan. 31, 2023, would like to express our sincere and humble thanks to Justice VandeWalle and acknowledge the debt of gratitude we and the entire State owe him for his legacy of service.

Justice VandeWalle has never forgotten his roots and has spent his life and career giving back. His devotion to the Law School is vast, and his presence with our students in our classrooms, over the years,

34. *See id.* The UND AA&F's wonderful article about the ceremony includes a link to a video of these and all remarks that were shared in honor of Justice VandeWalle.

35. *Gerald W. VandeWalle Courtroom Dedicated*, UND L. FEATURES, Oct. 2021, <https://law.und.edu/features/2021/10/vandewalle-courtroom-dedication-2021> [<https://perma.cc/FE6W-RA8S>].

36. *Id.*

has been numerous. His generous contributions of time and talent during these visits and as a role model while serving in Bismarck, as well as his importance in educating our future lawyers and judges, should never be understated.

We are extremely proud that Justice VandeWalle's name graces our soon-to-be renovated courtroom on the Law School's third floor. It's a recognition and an honor befitting a man who, above all else, exemplifies service to others.³⁷

I close this tribute to Justice VandeWalle with a note of reasons for my choice of title, "A Justice for All Seasons." It is, of course, an allusion to "A Man for All Seasons," the title of the famous play and film about the life and death of Thomas More,³⁸ the legendary sixteenth-century English lawyer and chancellor who, centuries after his martyrdom, became the patron saint of lawyers and judges.³⁹ Playwright Robert Bolt drew his inspiration for this title from the words More's fellow humanist (and accomplished grammarian) Robert Whittinton once used to describe his friend Thomas: "[H]e is a man of an angel's wit and singular learning. I know not his fellow. For where is the man of that gentleness, lowliness and affability? And, as time requireth, a man of marvelous mirth and pastimes, and sometime of as sad gravity. A man for all seasons."⁴⁰

Whittinton's description of More's "lowliness" evokes More's Christian virtue of humility. The Greek word "tapeinophrosynē," translated in various places in the New Testament as "humility," literally means "lowliness of mind."⁴¹ To illustrate, in the Letter of Saints Paul and Timothy to the Church at Philippi, they encourage the early Christian faithful to "[d]o nothing from selfish ambition or conceit, but in humility regard others as better than [them]selves."⁴² Justice VandeWalle is a contemporary paradigm of More's virtue of humility, as is consistently evident, among other ways, in how he

37. *Justice Gerald W. VandeWalle announces retirement*, N.D. L., Nov. 18, 2022, <https://blogs.und.edu/ndlaw/2022/11/justice-gerald-w-vandewalle-announces-retirement> [<https://perma.cc/P9QF-WT6F>].

38. See ROBERT BOLT, *A MAN FOR ALL SEASONS: A PLAY IN TWO ACTS* (First Vintage International ed., Vintage Books 1990) (1960); *A MAN FOR ALL SEASONS* (Columbia Pictures 1966).

39. See McGinniss, *supra* note 25, at 178-84 (discussing the life and death of Saint Thomas More, and his continued and growing significance in today's legal profession and culture).

40. Marvin O'Connell, *A Man for all Seasons: an Historian's Demur*, CATH. EDUC. RES. CTR. (quoting, in modernized English, THE VULGARIA OF JOHN STONBRIDGE AND THE VULGARIA OF ROBERT WHITTINTON xxviii (Beatrice White, ed., 1932)) <https://www.catholiceducation.org/en/controversy/politics-and-the-church/a-man-for-all-seasons-an-historian-s-demur.html> [<https://perma.cc/3NSU-TST4>] (last visited Dec. 17, 2023).

41. BIBLE HUB, *tapeinophrosune*, <https://biblehub.com/greek/5012.htm> [<https://perma.cc/SA87-BF32>] (last visited July 13, 2023).

42. *Philippians* 2:3 (NRSVCE).

shows a caring interest in others regardless of status or rank,⁴³ and how he speaks with gratitude for those who have helped him achieve his tremendous accomplishments. In an interview with the UND AA&F after the February 2020 ceremony in his honor, “[w]hen asked why he believes he was successful as a chief justice for 27 years, his answer [was] simple. ‘If I have done one thing in my life to be successful it’s been being smart enough to surround myself with good people.’”⁴⁴

Jerry Vandewalle, my fellow North Dakota lawyer and my steadfast friend, has been graced with many professional and personal virtues in all of the flourishing seasons of life he has been blessed to enjoy and share with others. May his legacy always be honored and his example a source of continued inspiration for all who have gained in their own knowledge, wisdom, and character from the gift of knowing him.

*Cathy Arneson**

It was my honor to serve as Justice Vandewalle’s judicial assistant for twenty years.

What a treasure Justice Vandewalle, the Chief, has been to our state as well as on a national level. He has met and visited with many prominent people throughout the years. He has received numerous awards and accolades, all so richly deserved. While I know the Chief has been honored and humbled by it all, I personally believe some of the things that bring him the most joy and happiness are: a trip to Medora and the Badlands he loves so much, a get-together with friends and relatives in his hometown of Noonan, and his dear nieces and their families of whom he speaks often and is so proud. He always welcomed a surprise drop-in visitor, whether it be a fellow Noonanite, a college fraternity brother, or a friend or relative he hadn’t seen for several years. The Chief would take them into his office, show them his messy desk, and say, “This is how I work.” He would then usher them into his conference room for coffee and conversation.

The Chief took a special interest in the court family, treating all of us as he would his own. Whether it be the birth of a child or grandchild, a wedding, an illness, or death, he cared deeply for us and shared in our joys as well as our sorrows.

43. *See, e.g.,* Ihry, *supra* note 29 (“Knowing each nook and cranny of the capital building like the back of his hand, Justice Vandewalle leads us on a tour down the long and spacious sunlit hallways. He smiles and says, ‘hello’ to almost everyone he meets—knowing most by their first names. He is intentional and genuine with his actions and words, displaying a true and thoughtful interest in others.”).

44. *Id.*

* Cathy Arneson was Justice Vandewalle’s longtime judicial assistant.

The Chief is a kind, caring, gentle man with a servant's heart. He touched many lives during his illustrious career. I am grateful and blessed for the opportunity I was given to work for him.

*Logan Carpenter**

Dressed in a suit, tie, and the required mask, I had an important meeting to get to as a new lawyer. Upon my arrival at the hospital, I noticed the door to the room was closed. Not wanting to miss the meeting, I asked the nurses behind the reception desk if it was okay to go into the room. One responded, "Oh, of course. Just knock. He is always in meetings." That made sense since I was there to meet with that particular patient—my new boss—Justice Gerald VandeWalle. Even though he was in the middle of a lengthy recovery from COVID-19, he was more than happy for another meeting. This deep respect for the importance of his work carried throughout the year I spent at the North Dakota Supreme Court. No matter the obstacles life threw at him, Justice VandeWalle was always ready to get to work for his fellow North Dakotans. A job they repeatedly elected him to do for almost forty-five years.

For more than half of his career on the bench, law clerks learned from Chief Justice VandeWalle. In 2019, he stepped down from that role. I was his first law clerk since his many years as "Chief" who had the privilege to get to know him by his previous title: Justice VandeWalle. When I asked him what he preferred to be addressed as, he responded, "Justice VandeWalle or just Jerry." While I could never imagine referring to the man with such a storied legal career as "just Jerry," his response illustrated the humility that made him such an effective leader for so many years.

Countless times, I observed this leadership and kindness Justice VandeWalle treated others with. Wherever we went, people from all walks of life would approach him with a big smile on their faces, happy for the opportunity to catch up with their friend, Jerry. Justice VandeWalle would start the conversation by making sure he did not forget to introduce us and would always attentively listen as he caught up with his friends. He always had good questions to ask and was eager to learn about the latest developments in their lives.

As his law clerk, Justice VandeWalle always had good legal questions to ask me, too. Often, I did not have an answer, but every time he was gracious and willing to talk things through with me. He was also always interested in getting my perspective on legal issues, no matter the numerous years of experience he had more than me. Every day before leaving, he would

* Logan Carpenter is General Counsel for the North Dakota Ethics Commission. He served as Justice VandeWalle's law clerk from 2020-2021.

thank me and others for our work and assistance. His words and genuine respect reassured us our work mattered.

By my count, Justice Vandewalle authored one thousand seven hundred and eighteen opinions during his career, not including his separates and dissents. His brilliant legal mind and these opinions may be what most people think of when they look back at his historic career. For me, it is the kindness, humility, respect, and appreciation for others he demonstrated every day while serving the State of North Dakota. While I miss the year I spent working with my friend, no one deserves a more relaxing and happy retirement than him. Thank you, Justice Vandewalle, for your career of service. May we all aspire to become half the lawyer, person, and friend you are to so many.

*John M. Koneck**

I was Chief Justice Vandewalle's first law clerk from 1978 to 1979. The best way to describe how I came to hold that honor is to say that we inherited each other. I had interviewed with and was hired by Chief Justice Vandewalle's predecessor on the court, Justice Robert Vogel. I turned down another clerkship opportunity specifically so that I could work with Justice Vogel, so you can imagine the distress that I felt in the summer of 1978 when he told me that he was leaving the court to teach full-time at the University of North Dakota School of Law. Chief Justice Vandewalle was under no obligation to keep me on as his law clerk, but I was grateful when he decided to do so.

I knew very little about Chief Justice Vandewalle when I began working with him except that he had served the State of North Dakota for many years in the Attorney General's office. On a personal level, I immediately found that Chief Justice Vandewalle was a pleasure to work with. Anyone who knows him well knows that he takes a personal interest in the lives of those around him, he has a great sense of honor, and he always looks for the good in people. What impressed me from the beginning was that he seemed to know personally most of the approximate 650,000 people who lived in North Dakota back then. There were not many North Dakota cases or issues that we discussed in which he did not know at least some of the people involved.

* John M. Koneck is a shareholder at Fredrikson & Byron P.A. in Minneapolis. For several years John served as President of the firm and as a member of its Board of Directors and Executive Committee. This tribute is an adaptation of an earlier tribute to Chief Justice Vandewalle celebrating his thirtieth anniversary on the North Dakota Supreme Court. Earlier tribute compiled by Michael L. Wagner, *Chief Justice Gerald W. Vandewalle: Stories of a Man Who Has Touched Many*, 84 N.D. L. REV. 973, 982 (2008).

On the professional side, I quickly learned three things about him. First, I thought I learned how to read statutes in law school, but the year with Chief Justice VandeWalle was like a fourth year of law school on the topic of statutory construction. This was based in part on his knowledge of North Dakota law, legislative history, and public policy, but mostly it resulted from his strong intellect and desire to get it right. Second, he was an excellent (and stubborn) writer. Back then, I thought that I was a hotshot writer and had not yet learned that there were lots of others who could write pretty well too. From the first draft opinion Chief Justice VandeWalle gave me to review, I was impressed with the clarity of his writing and his fierce defense of each and every word he wrote. I quickly discovered that, if I edited anything, I had better be prepared to defend it. Third, early on I saw firsthand the depth of his personal integrity. Shortly after he was appointed to the court, an opponent ran against him in his first judicial election. You can tell a lot about a person by how he or she acts in times of stress. On top of learning to be a judge and settling into a new job, Chief Justice VandeWalle faced a contested election, which created great uncertainty and much stress. Chief Justice VandeWalle's integrity, reflected in his desire to always take the high road during that election process, has served as a model for me during hard times in my own professional life.

Over the last forty-five years—until his retirement early this year—I have watched him serve North Dakota as a Justice, then Chief Justice of the North Dakota Supreme Court, and our country and profession in many roles nationally. His lifetime of service is a model for all lawyers, and I feel fortunate to have been his first law clerk.

*Ashley Roll**

Over the course of his forty-four years on the North Dakota Supreme Court bench, Justice Gerald W. VandeWalle had numerous law clerks, and I am honored to have served as one of them. My time in his chambers was, without a doubt, the most rewarding experience.

Clerking for Justice VandeWalle was my first job straight out of law school. As part of my work duties, I would apprise him of the cases before the court and write the first draft of an opinion assigned to him. Justice VandeWalle challenged me to think critically and write persuasively in every opinion I drafted. The task of drafting an opinion is invaluable for a young

* Ashley Roll is currently a term law clerk for the Hon. Daniel M. Traynor, U.S. District Judge for the District of North Dakota. She was one of Justice VandeWalle's last law clerks before he retired in January of 2023.

lawyer right out of law school. Drafting allowed me to gain confidence in my analytical and legal writing skills, which are essential for a legal career.

As Justice Vandewalle's law clerk, I learned more than just analytical and legal writing skills. Justice Vandewalle led by example on how to treat others with respect, dignity, and kindness despite differences in opinions. I always admired how respectful and professional he was to his colleagues, staff, law clerks, and attorneys who appeared before him.

If I could use one word to describe Justice Vandewalle, it would be "thoughtful." Every clerk who worked for him knew his family mattered the most to him. He often told stories about his childhood on the dairy farm and shared the latest news about his great-nieces and -nephews. He also took a genuine interest in his clerks' lives and always asked about their families. His thoughtfulness and kindness allowed those around him to seek his guidance and support.

One of my favorite memories of clerking for Justice Vandewalle was his excitement when he introduced me as his law clerk to others. During my clerkship, my maiden name was Ashley Vander Wal. So, individuals would always give him a quizzical look and ask him if we were related. He would smile and tell them that my last name was two words and had an "r," one "l," and no "e" at the end. Justice Vandewalle had a great sense of humor and could make anyone laugh.

Justice Vandewalle was much more than a justice I clerked for; he was a great mentor and friend. His guidance, mentorship, exemplary work ethic, and deep respect for the law have had a remarkable impact on me and those fortunate enough to have worked alongside him. I will always be grateful for my experience clerking for Justice Vandewalle and the friendship that followed.