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## **JUSTICE BENJAMIN K. MILLER TO RETIRE FROM SUPREME COURT**

**SPRINGFIELD -- Justice Benjamin K. Miller**, who served as a bridge between the old and the new on the Supreme Court of Illinois, and who earned a reputation as one of its most innovative chief justices, announced on Tuesday that he is retiring from the bench.

Justice Miller, 64, has authored numerous landmark opinions and has participated in thousands of cases that have come before the court, but that is only part of his legacy. As Chief Justice between 1991 and 1994, he brought a pro-active, forward-looking perspective to the Court. He instituted programs to combat the problems of domestic violence, worked for an aggressive evaluation process of all judges in Illinois and laid the groundwork for an improved system of judicial education that is now winning plaudits as a model for such programs around the nation.

Justice Miller said that he is giving up the seat he has held on the Supreme Court since December 1984 to pursue “adventures in and outside of the law that have long held an interest for me.” Justice Miller is an avid and accomplished sailor, having come to that sport in his early years on Lake Springfield. Among his plans now is to sail from Florida to South America, aboard his 37-foot vessel, “Adventure.” He also intends to involve himself further in the legal and academic world of bioethics, a field where he believes law, philosophy and medicine intersect. He has served as an adjunct professor at the Southern Illinois University School of Medicine, Department of Medical Humanities, since 1974.

“President Kennedy once remarked that change is the law of life, and those who look only to the past or present are certain to miss the future,” Justice Miller said of his retirement. “Our system of law represents the finest aspects of American history and American culture. Our devotion to fairness and justice, our belief in freedom and liberty, and our commitment to personal equality--these are the core values on which our nation was founded.

“It has been my privilege--in the past and in the present--in my role as citizen, lawyer and judge, to help translate these ideals into concrete terms through the matters that come before me as a member of society, the legal profession, and the Supreme Court of Illinois. I will continue in those efforts, but now it is time to move on to new adventures in the law and other areas that have long held an interest for me.”

Justice Miller’s retirement is effective January 29, enabling him to complete the work of the Court’s January term and to help familiarize three new justices with the Court’s duties and traditions. It is not unlike the tutelage Justice Miller received as a new member when he began his years of service on the Court in December 1984. At that time, he joined **Justice Daniel P. Ward**, who had been on the Court since 1966; **Justices Joseph H. Goldenhersh** and **Howard C. Ryan**,

who had joined the Court in 1970; **Justices William G. Clark** and **Thomas J. Moran**, who had been members of the Court since 1976; and **Justice Seymour F. Simon**, who had joined the Court in 1980.

## SUMMARY AND REACTION

Justice Miller was the youngest member of the Supreme Court from 1984 until 1998; since 1992, he has been its most senior member in terms of years served on the Court. With a tenure on the Court spanning three decades, Justice Miller has been the institutional link between the Court then and now, and a participant in sea-changes that have occurred in the administration of justice in Illinois over those years. His many contributions to the Court, and to its continuity as an institution, have been noted by his colleagues, who expressed deep regret at his leaving.

“Justice Miller will be greatly missed by the Court,” said **Chief Justice Moses Harrison II**, who came on the Court in 1992 while Justice Miller was Chief Justice. “He is an outstanding jurist, but most of all, we will miss him as a friend and a mentor.”

“He has a real love of the Court, a love of the system, and a love of the institution,” said **Justice Charles E. Freeman**, who joined the Court in 1990. “The Court has always been something he has wanted to protect and keep in high esteem. That has always been very important to him, and it is a lesson and a goal that he has handed down to all of us.”

“He is a knowledgeable and a superb judge,” said **Justice Mary Ann McMorrow**, who came on the Court in 1991, also when Justice Miller was Chief Justice. “He has very zealously guarded the Court as an institution and committed himself to serving it with distinction. He’s been a mentor to me and all the other members of the Court, and a very good friend.”

During his tenure on the Court, Justice Miller has participated in more than 2,000 cases in which full opinions have been issued. He has authored 487 opinions. He has also taken part in more than 20,000 cases involving requests for review by the Court, and has been involved in the disciplinary matters of more than 1,300 lawyers.

Elected as a Republican from the Fourth Judicial District--a 30-county expanse stretching across central Illinois--Justice Miller has written a number of landmark opinions for the Court. These include decisions denouncing police brutality and forced confessions (**People v. Wilson**, 116 Ill. 2d 29 (1987)); upholding the constitutionality of the guilty-but-mentally-ill statute, (**People v. Lantz**, 186 Ill. 2d 241 (1999)); and upholding the constitutionality of the statutory privilege for communications made by sexual assault victims to rape crisis counselors (**People v. Foggy**, 121 Ill. 2d 334 (1988)).

Justice Miller dissented from a majority opinion that struck down tort-reform legislation (**Best v. Taylor Machine Works**, 179 Ill. 2d 367 (1997)). He wrote the majority opinion in a decision that allowed the estate of a woman who died from an asthma attack to bring an action

alleging that paramedics failed to properly respond to her 911 emergency call. (**American National Bank & Trust Co. v. City of Chicago**, 192 Ill. 2d 274 (2000)).

“He really is one of the best judges on the Court,” said Justice Freeman. “He and I don’t agree on some things but you will know where he stands; and he will always give you the opportunity to dissuade him. He is a judge who will give an ear to the opposition, and if he feels it’s important and right, he’ll change.”

Justice Miller has been the catalyst for many changes in the legal landscape during his Supreme Court tenure, and he earned praise as Chief Justice for proposing and carrying out forward-looking initiatives.

“Always his goal has been to see that the state’s court system operates in the most efficient and effective manner. He is to be commended for his dedication to that effort and the admirable way in which he has carried out his responsibilities as Chief Justice,” the Springfield State Journal-Register editorialized about his period as Chief.

## **TENURE AS CHIEF JUSTICE**

Justice Miller developed an early sensitivity to issues which he later translated into achievements when he was Chief Justice. Almost from his start as a lawyer in private practice after receiving his Juris Doctorate degree from Vanderbilt University in 1961, Justice Miller began giving free legal help to battered and abused women. He was the first male to join the Central Illinois Women’s Bar Association, and he was the first member of the Women’s Bar Association of Illinois to serve on the Supreme Court. When he became Chief Justice, he played a key role in creating the **Illinois Family Violence Coordinating Council** to help improve the cooperation and response of Illinois courts and agencies to matters of family violence.

Since then, local coordinating councils have been established covering 91 of Illinois 102 counties. Many judicial circuits have held family violence symposia for hundreds of professionals, including law enforcement officials, prosecutors, probation officers, judges, public defenders, members of the clergy, education officials, health personnel and social services staff.

One of Justice Miller’s most significant achievements as Chief Justice was convening a conference on **The Future and the Courts of Illinois**. The conference brought together some 450 participants, including 300 non-lawyer business and community leaders, to survey demographic, economic and technological forces and measure their impact on the courts.

While Chief Justice, Justice Miller also initiated other advances, including the following:

--Expansion of **judicial performance evaluations** statewide. Under this program, lawyers, police officers, jurors and others who have appeared before a judge are surveyed about their opinions of the judge’s legal knowledge, courtroom decorum and administration of the

judge's courtroom. The results of the surveys are presented in private, confidential meetings with judges to help them see what others regard as their professional strengths and weaknesses.

--The addition of non-lawyers to hearing board panels of the **Attorney Registration and Disciplinary Commission**, which make preliminary findings on charges of misconduct against lawyers.

--Transformation of the constitutionally mandated **Judicial Conference**, reducing it in size from hundreds of judges to 80, and establishing specific committees to better meet its constitutional mission to suggest improvements in the administration of justice in Illinois. Justice Miller also laid the groundwork for what has become the Comprehensive Judicial Education Plan for Illinois judges, hailed as a national model for continuing judicial education programs.

--Reorganization of the bar admission process in Illinois. It established a **Board of Admissions to the Bar**, and established procedures to pre-screen law school students so that prospective lawyers can learn at the beginning of their student careers whether background problems might later pose an obstacle to their entry into the profession.

--Amendments to the **Code of Judicial Conduct** clarifying permissible law-related activities of judges and restrictions on political activity by judges and judicial candidates.

--Establishment of the **Special Commission on the Administration of Justice**, chaired by attorney Jerold S. Solovy, which produced two separate reports on the management practices and administration of the courts, and on the state's juvenile justice system.

Justice Miller has been in the forefront of applying advances in office automation and technology to the courts, and a number of new court rules were adopted during his tenure as Chief Justice to make the administration of justice more efficient. These included new provisions authorizing Circuit Courts to hold hearings and conferences by telephone, and authorizing parties to serve certain documents by facsimile.

While Chief Justice, Justice Miller also brought to an end a 15-year dispute over whether the state auditor general could audit two agencies created by the Supreme Court. Under the agreement, Justice Miller invited the auditor general to audit the Board of Admissions to the Bar and the Attorney Registration and Disciplinary Commission, while maintaining the Supreme Court's position that the funds involved were non-state funds.

As Chief Justice, Justice Miller also began the practice of appearing personally before the budget committees of the Illinois Senate and House to present and answer questions about the judicial branch budget, and hired for the first time the Court's own chief internal auditor.

## **PERSONAL AND PROFESSIONAL**

Justice Miller, a native of Springfield, received a B.A. degree from **Southern Illinois University** in Carbondale in 1958 and a J.D. from **Vanderbilt University School of Law** in 1961. He returned to Springfield and, following his admission to the bar of Illinois in 1961, engaged in the private practice of law until 1976, when he was appointed a **Circuit Court judge** for the 7<sup>th</sup> Judicial Circuit. He was elected to that position in 1978, served as **presiding judge** in the criminal felony division from 1976 to 1980, and in 1981 was elected **chief judge** of the 7<sup>th</sup> Judicial Circuit, which includes six counties in central Illinois.

He served in that capacity until 1982, when he was elected to the **Illinois Appellate Court**, Fourth District. In 1984, Justice Miller was elected to the **Supreme Court**, and he was retained in 1994. He served as **Chief Justice** from January 1, 1991 to January 1, 1994.

As a member of the Supreme Court, Justice Miller has served as liaison to numerous Supreme Court agencies and committees, including the **Attorney Registration and Disciplinary Commission**, the **Board of Admissions to the Bar**, the **Conference of Chief Circuit Judges**, the **Committee on Professional Responsibility**, the **Special Committee on Electronic Transmission of Data**, the **Committee on Judicial Conduct**, and the committees that formulate **Pattern Jury Instructions** for use in civil and criminal cases in Illinois.

Justice Miller served as chair of the **Illinois Courts Commission**, the constitutional body that disciplines judges, from 1988 to 1991.

Justice Miller has been involved in many professional and civic organizations. In 1991, he received an Honorary Doctor of Law Degree from the **John Marshall Law School** in Chicago.

Under the Illinois Constitution, the Supreme Court will fill Justice Miller's vacancy by interim appointment until the next judicial election, in 2002.