



Supreme Court of Illinois

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JUSTICE JOHN L. NICKELS

John L. Nickels was raised on a dairy farm in rural Illinois, started his education in a one-room country schoolhouse at the age of four and rose to become a Justice on the Illinois Supreme Court.

Justice Nickels passed away in the company of his family on Monday after a long illness. He had served on Illinois' highest court from December 1992 to his retirement in December 1998, earning a reputation as a quiet, private man but one who was unafraid to express his fidelity to fundamental beliefs and to call out publicly those he felt had abused their trust. Justice Nickels was 82.

"He was a gentle and most hospitable man," Illinois Supreme Court Chief Justice Thomas L. Kilbride said. "He carried a wealth of compassion and internal resolve to bring out the best in all of us -- to be respectful professionals. He was a real role model and epitomized that it was quite acceptable 'to agree to disagree.'"

Justice Charles E. Freeman, the only current justice whose tenure goes back to when Justice Nickels served on the Supreme Court, recalled "his collegiality and common sense approach to everything he did.

"It was an honor to serve with him," Justice Freeman said. "Justice Nickels brought with him an independence, a true commitment to the law and an ability to analyze issues in a very straightforward manner."

Justice Nickels grew up in the '30s and '40s, his views shaped by wonder at the bounty which a hard-working family could extract from the dark, rich soil of Kane County farmland in Sugar Grove. Yet, his beliefs were as current as the themes that are sounded today--access to justice, civility and professionalism, judicial independence, and abhorrence at injustice and prosecutorial overreach.

Justice Nickels was a staunch advocate of lawyers sharing their privilege with the poor, disadvantaged and vulnerable—providing free legal services to the needy. He called it "the work of the Lord."

In the 1990s, he was the Supreme Court liaison to the Lawyers Trust Fund and was credited with efforts to increase access to justice for low-income citizens and provide more funding for legal aid programs throughout Illinois. He urged his colleagues on the Supreme Court to adopt a rule that allowed lawyers' pooled client accounts to earn a higher rate of interest which, in turn, substantially increased the amount of funds available for legal services through the Lawyers Trust Fund. For his efforts, he was given the Access to Justice Award by the Illinois State Bar Association.

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Justice John Nickels Add One

"I believe that it is the professional responsibility of every judge and every lawyer to do all that they can individually and collectively to further the cause of equal access to Justice," he said in remarks accepting the award.

"We can thank Justice Nickels for expanding access-to-justice efforts in Illinois," said Timothy L. Bertschy, president of the Illinois State Bar Association when it awarded the honor to Justice Nickels. "He played a leading role in the Supreme Court's decision to adopt a rule which allowed pooled client accounts to earn higher rates of interest, providing substantially more dollars that went to legal aid efforts."

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Years before the Supreme Court established its Committee on Civility and in 2005 the Commission on Professionalism, Justice Nickels called for professionalism and civility by all attorneys and judges.

"We must be fair and courteous to our adversaries," he said. "Under the canons of ethics, the rules of common courtesy and human dignity, there is really no place in our profession for what is commonly called 'Rambo tactics.' It is extremely divisive and rarely serves the client or the courts."

The Committee and the Commission were established by the Supreme Court upon the recommendation of current Supreme Court Justice Robert R. Thomas, who like Justice Nickels, is from the Second Judicial District, which stretches across the northern tier of the state, excluding Cook County.

"John was not just a smart and talented judge, he was also a kind and decent man," said Justice Thomas. "He was a gentleman in the best sense of the word, and his commitment to collegiality and civility was an inspiration to everyone around him. I will miss him."

Justice Nickels believed judicial independence was the cornerstone of democracy, that it was the sworn duty of judges to make the hard and unpopular decisions. And, in his farewell address when he announced his retirement at a formal dinner honoring the Supreme Court, he criticized President Bill Clinton and Republican Senate Leader Robert Dole by name for urging the resignation or impeachment of a judge who suppressed evidence which had been seized in violation of the Fourth Amendment.

"Regardless of the short-term political expediency of such comments, they are outrageous," Justice Nickels said.

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He believed prosecutors, while advocates, have a special role: "They must walk that fine line. In their exercise of prosecutorial discretion they must be keenly aware of what is fair and just," he said in his retirement speech. Later, in an interview with the Chicago Tribune, he said: "We can't lose sight of what we're all there for and that's to do justice. We have a larger responsibility to acquit the not-guilty person than we have to find guilty the guilty person. Some prosecutors lose sight of that."

"I have somewhat strong feelings that sometimes the prosecutorial part of things tends to get out of sync. Sometimes, prosecutors become more adversarial than the position calls for. In the Appellate or the Supreme Court, we're the ones who end up dealing with the prosecutorial indiscretions. So many times, it's so unnecessary, so counterproductive and just so wrong."

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Justice John Nickels Add Two

Following his retirement, he agreed to testify before a special Illinois House Committee on Prosecutorial Misconduct and voiced support for some ideas that law enforcement officials had resisted. He supported a requirement that police electronically record interrogations of suspects, that the names of erring prosecutors be specifically mentioned in Appellate and Supreme Court opinions—even if it means they will be referred for possible disciplinary action--and a proposal to require prosecutors to open their files to defense attorneys to prevent the concealment of exculpatory evidence.

During his six years on the court, Justice Nickels heard and participated in 820 cases. He authored 95 majority opinions, 45 dissenting opinions and 10 special concurring opinions.

Among the majority opinions he authored was a decision which struck down as unconstitutional the City of Chicago's gang loitering ordinance. The case went up on a challenge to the U.S. Supreme Court, which upheld Justice Nickels' decision and reasoning.

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Justice Nickels grew up on a dairy farm in Kane County and at age four began his education in a one-room country school consisting of one teacher for all eight grades and a student body numbering around 15. When he was a boy, his family was featured in a Beacon-News newspaper article on farm families aiding the World War II effort. The article included a picture of him, then 11, working atop a tractor. "Jackie can handle this tractor as easily as most youngsters pedal a bicycle," the caption read.

He credited his agrarian background—with mandated chores before dawn and year-round help on the farm—with building and shaping lifelong values of hard work, commitment and loyalty. Throughout his legal and judicial career, he continued working a farm, planting grain with no-till plowing to conserve and feed topsoil; using computerized methods to further conserve resources; creating a wildlife sanctuary along a creek and pond area; and helping children with their show calves and their horses.

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Justice Nickels' judicial career began in 1982 when he was elected a trial judge in the 16th Circuit which then served DeKalb, Kane and Kendall counties.

He ran unopposed and was elected to the Supreme Court from the Second Judicial District in 1992 after an upset victory in the March 1992 primary election.

"I hope where I come from makes a difference," he told a reporter covering the campaign at the time. "People have to make their decision based on a measure of the person. That's something you can't hand them on a resume or a campaign flyer. They want to look you in the eye. I hope when they look at me, they see something of themselves."

He ran uncontested in the general election and filled the vacancy created by the retirement of the late Justice Thomas Moran of Lake Forest.

Before his successful election to the Supreme Court, Justice Nickels served as an Illinois Appellate Court Justice, elected in 1990. As an appellate justice, he authored 66 majority opinions and three dissents.

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Justice John Nickels
Add Three

Before becoming a Circuit judge, Justice Nickels practiced law for more than 20 years. He was long active in the business community and in public service.

He was elected to the first Board of Trustees for Waubensee Community College. He served on the Kane County Planning Commission and on the Zoning Board of Appeals. He also served on the Board of Directors of the Kane County Bank & Trust Co.

He was an active member of St. Gall Catholic Church in Elburn, Ill., and also was a member of several organizations devoted to the arts. He was proud of his Luxembourg heritage and was a member of the Luxembourg American Cultural Society.

After attending the country, one-room schoolhouse, Justice Nickels was taught by the Benedictine monks at Marmion Military Academy in Aurora, Ill. He served two years in the United States Army and received an honorable discharge in 1956.

He received his *juris doctor* degree from DePaul University College of Law after graduating with a degree in business administration from Northern Illinois University, which he received in two years after enrolling on the G.I. Bill.

In addition to the recipient of the Access to Justice Award, he has been accorded many honors. They include the Outstanding Leadership Award from the Second District Appellate Court; the Distinguished Service Award from Waubensee Community College; the Distinguished Alumni Award from Northern Illinois University; the Lincoln Award, recognizing a "Lifetime Pursuance of Equal Justice for all; and the Marmion Centurion Award for "Constancy, Loyalty and Service."

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He is survived by his widow, Merita, a professional artist, seven children, 24 grandchildren and one great grandchild.

At the Supreme Court dinner where he announced his retirement, Justice Nickels put it this way:

"This farmer's son is going home. I am going back to the land that has always nourished my soul – back to the land that I never really got off of my hands or out of my heart. It will receive me again with open arms, I am sure."

Visitation will be Friday and Saturday at St. Gall Catholic Church in Elburn with a Catholic Mass at St. Gall at 11 a.m. Saturday. Burial will be at St. Gall Cemetery.

Memorials in the name of John L. Nickels may be made to The Rafiki Foundation for the education of orphaned and abandoned children in Tanzania www.rafikifoundation.org; or to Marmion Abbey's Preparatory Mission School in Guatemala www.marmion.org. Memorials may be mailed in care of P.O. Box 66, Elburn IL 60119.

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