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# Judge Ervin

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# JUDGE ERVIN

CATHERINE E. THOMPSON\*

*What does the Lord require of thee, but to do justice, and to love mercy, and to walk humbly with thy God?*

Micah 6:8

From the very beginning of his nineteen-year tenure as a United States Circuit Judge for the Fourth Circuit Court of Appeals, Judge Sam J. Ervin, III served with absolutely no fanfare. I had the honor of clerking for him in 1980–1981, during his first full year on the Fourth Circuit. I was initially surprised and, over time, impressed by his complete lack of pretense. He arrived at his Morganton, North Carolina, chambers most days without a tie, often wearing a blue windbreaker, sometimes wearing a sports coat. A suit was a clear signal: a friend had died and he was funeral bound. He went home for lunch each day. His chambers were in the basement of the Morganton police station, and he always took the time to exchange a few words or a story or two with the police officers working there.

While I and his other law clerks over the years deeply admired him for his wide-ranging talents and abilities as a judge, we loved him for being who he was. During the year that I worked for him, I learned firsthand that, while he was an uncommonly fine federal judge, he never lost his ability to connect with the ordinary men and women around him. The way he approached his responsibilities to the court, and the way he lived his life, were perfectly consonant. He was just. He was compassionate. And he quietly exhibited his deep devotion to God, every day.

Judge Ervin's sense of justice grew out of his years of experience as a North Carolina Superior Court Judge. Lawyers across North Carolina consider him to have been one of our finest trial judges. When he joined the Fourth Circuit, he regularly studied the record of the trial court proceedings and sifted the facts through the case law

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and the applicable standard of appellate review. The facts of a case always informed his sense of justice. No judge mastered a record better. He made the case on appeal fully dimensional in his mind and in the minds of his clerks before he heard arguments or made up his mind about the merits of the appeal. The parties to a case on which he sat received a full measure of justice from him: he listened to them, and he understood their legal dispute often better than they did themselves.

Striving to achieve just results in thousands of cases and appeals was wrenching and wearing at times, and the weight of that responsibility surely took its toll on the Judge and on his health. Despite the psychic and physical cost of that effort, Judge Ervin never lost his merciful heart. He accepted that not all moral or social wrongs have a legal remedy and that the law sometimes provides only a rough measure of justice. Yet, through the years, he always showed compassion for litigants who had suffered a wrong or a loss outside the remedial limits of the law.

Those of us who were privileged to clerk for Judge Ervin always marveled at his ability to act with justice but see the world through a lens of mercy. Over time, we each came to understand that this remarkable capacity sprang in substantial part from his trust in God. In *Beyond Good and Evil*, Friedrich Nietzsche says that “[t]he essential thing in ‘heaven and earth’ is . . . that there should be long obedience in the same direction; there thereby results, and has always resulted in the long run, something which has made life worth living.” The arc of Judge Ervin’s life reflected his enduring faith and, at the end, exhibited his long obedience in the direction laid out by his faith.

There are so few among us who can measure up to the prophet Micah’s exhortation to do justice, love mercy, and walk humbly with God. Judge Ervin was one of the few, and I am grateful for the example of his life.