

JUDGE KERMIT E. BYE

U.S. COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Kermit Bye's professional competency and integrity did not go unnoticed. On April 22, 1999, Bye was nominated by President William Jefferson Clinton to the U.S. Court of Appeals for the Eighth Circuit to fill the vacancy created by the death of his friend and former law partner, Judge John David Kelly. North Dakota Senator Kent Conrad said, "North Dakota needs to send our best for a position on the second highest court in the land. Kermit Bye is our best."

Bye's nomination was unanimously approved by the U.S. Senate Judiciary Committee on November 17, 1999, and he was unanimously confirmed by the U.S. Senate on February 24, 2000.

As a jurist, Judge Bye has supported the rights of criminal defendants and civil liberties. In *U.S. v. Sell*, he dissented against the Court's upholding that the government could force Sell to ingest antipsychotic medication in order to render him competent to stand trial. The Supreme Court



agreed and remanded the case. In *Brown v. Crawford*, his dissent argued that a Missouri inmate's execution should be stayed because Missouri would not reveal the amount of sodium pentothal used, information needed to determine whether Brown would be unconscious during the execution process. In *U.S. v. McDonald*, his dissent in the Eighth Circuit's reversal of a downward departure in sentencing post-*Booker* warned that failure to afford proper deference to sentencing discretion could create an unconstitutional de facto mandatory sentencing system.

Judge Bye assumed senior status on April 22, 2015, at the age of 77, on the fifteenth anniversary of his private oath of office.

He served on the United States Judicial Conference Advisory Committee on Appellate Rules and on the Eighth Circuit Judicial Council as chair of the Court Reporter Management Committee and the Rules Committee.



Above: The Byes at lunch with Senators Kent Conrad and Byron Dorgan on the day of Judge Bye's nomination hearing before the U.S. Senate Judiciary Committee, November 17, 1999.



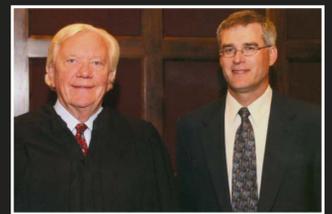
Above: North Dakota's Circuit Judges Magill, Bye, and Bright at Judge Bye's private swearing in, April 22, 2000.



Judge Bye taking his oath of office before Chief Judge Wollman at his investiture at the Quentin N. Burdick U.S. Courthouse in Fargo, June 2, 2000. (Photo by Bruce Crummy courtesy of Fargo Forum)

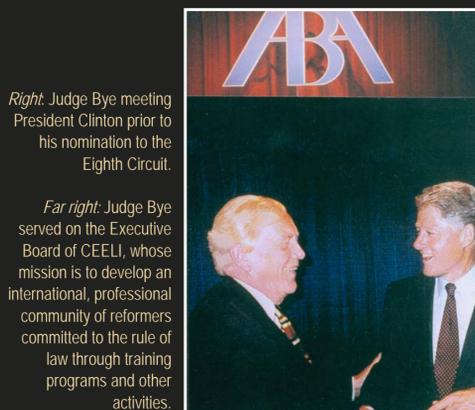


U.S. Court of Appeals for the Eighth Circuit, 2010. Sitting L-R: Judges C. Arlen Beam, Myron H. Bright, William Jay Riley (Chief), Roger L. Wollman, James B. Loken, David R. Hansen. Standing L-R: Judges Bobby E. Shepherd, Raymond W. Gruender, Lavenski R. Smith, Kermit E. Bye, Diana E. Murphy, Michael J. Melloy, Steven M. Colloton, Duane Benton.



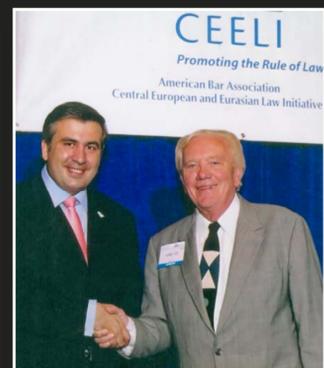
Judge Bye with Zue Zan Hanna (top), Administrative Assistant to attorney Bye, 1985-2000, and Judicial Assistant to Judge Bye, 2000-2015, and James E. Nicolai (above), Career Law Clerk, 2006-2015.

He also served in leadership roles in state, regional, national, and international legal communities. A past president of the State Bar Association of North Dakota, Judge Bye is the 13th lawyer in the history of North Dakota to receive the Distinguished Service Award from the State Bar Association. He was president of the Western States Bar Conference and the National Caucus of State Bar Associations. Long active in the American Bar Association, he is a former member of its Board of Governors and was a member of the Executive Board of the Central and East European Law Initiative (CEELI), a service project fostering the rule of law that is supported by the U.S. State Department, sponsored by the American Bar Association, and based in Prague, Czech Republic. He represented the judges and lawyers of North Dakota as North Dakota's State Delegate to the ABA House of Delegates.



Right: Judge Bye meeting President Clinton prior to his nomination to the Eighth Circuit.

Far right: Judge Bye served on the Executive Board of CEELI, whose mission is to develop an international, professional community of reformers committed to the rule of law through training programs and other activities.



Above: Judge Bye continued his commitment to UND School of Law throughout his legal career. He lectured to classes after judging moot court and supported the summer extern program. Right: Judge Bye and Carol Beth Bye at ABA London Meeting, Queen's Garden Party, July 19, 2000.

