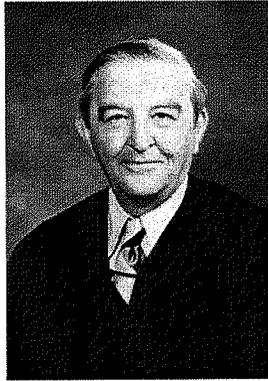


RESOLUTIONS
UNITED STATES COURTS
for the
EIGHTH CIRCUIT

Adopted
Eighth Circuit Judicial Conference
Minneapolis, Minnesota
August 12, 2010

RESOLUTION

IN MEMORIAM
of
THE HONORABLE GERALD W. HEANEY
United States Circuit Judge
United States Court of Appeals for the Eighth Circuit



Presented by:
The Honorable Myron H. Bright
United States Circuit Judge
United States Court of Appeals for the Eighth Circuit

Judge Gerald W. Heaney lived a life of continuing public and beneficial service to his community, to the State of Minnesota, and to his country, including almost forty years of service on the United States Court of Appeals for the Eighth Circuit. He devoted his judicial life to the principle that all men and women regardless of race, color, or creed must, and should, be entitled to equal protection of the law. Judge Heaney was a compassionate and brilliant jurist who represented the best of the “Greatest Generation.”

Gerald passed away at the age of ninety-two on June 22, 2010, in his adopted hometown of Duluth, Minnesota. Hundreds of persons from all walks of life attended his memorial and funeral services. Those paying respects included a former Vice President of the United States, a United States Congressman, a former United States Senator, many federal and state judges, members of legislative and executive bodies, numerous former law clerks, union officials and members,

lawyers, housewives, fishing companions, and, of course, his wife Eleanor and members of his family.

Gerald was a true son of Minnesota soil. He grew up in a family of seven children in Goodhue County, Minnesota, one of the sons of frugal, hardworking parents whose father worked as a butcher and part-time farmer. After attending small rural schools and graduating from high school in a class of five, he attended St. Thomas College and the University of Minnesota Law School, from which he earned his law degree in 1941. Gerald began his legal career at the Minnesota Securities Commission, but left this position to enlist in the United States Army where he volunteered and joined the 2nd Ranger Battalion. His unit was part of the D-Day force at Omaha Beach, where, after his two commanding officers suffered fatal wounds when the door opened on their landing craft, Gerald took command and led his troops across the beach where they successfully engaged the enemy in the face of heavy machine gun, mortar, and artillery fire. He earned a Silver Star for his heroic service to our country that day.

Throughout World War II, Gerald served with gallantry. In addition to the Silver Star he received the following decorations: EA ME Ribbon with five bronze stars and Arrowhead; Bronze Star, Presidential Unit Citation; and five battle stars. He returned to the United States in 1945 having attained the rank of Captain.

After his military service, Gerald married Eleanor, and began practicing law in Duluth. Over the next twenty years, Gerald became a leading citizen of Duluth, a successful lawyer, and an able political advisor to some of Minnesota's outstanding government officials, including such greats as United States Senator and later Vice President Hubert H. Humphrey, Governor of Minnesota and later Secretary of Agriculture Orville Freeman, former Minnesota Governor Karl Rolvaag, United States Senator Eugene McCarthy, United States Congressman John Blatnik, and others. Gerald also served with distinction as a member of the Board of Regents for the University of Minnesota and always supported the cause of bettering education. Gerald led many civic projects that benefitted his community and all of Northeastern Minnesota. Through Gerald's leadership, Minnesota established the University of Minnesota Duluth, and he played an important role in the creation of the Hubert H. Humphrey Institute at the Minneapolis campus of the University of Minnesota.

In 1966, on the recommendation of Senator McCarthy, President Lyndon B. Johnson appointed, and the Senate confirmed, Gerald as a federal circuit judge. As a judge, Gerald devoted much of his career and scholarship to crafting opinions that fostered equal rights for all persons in this country regardless of race, religion, gender, or disability. Through his more than 2,500 opinions for the federal courts, and supplemented legal writings, Judge Heaney's views became leading opinions in almost every area of the law.

In particular, Judge Heaney wrote opinions making successful public school desegregation in St. Louis, Missouri; Kansas City, Missouri; Omaha, Nebraska; Little Rock, Arkansas; and other communities. The St. Louis School desegregation cases that Judge Heaney oversaw for nearly twenty years resulted in the largest school choice program in this country. The story of that struggle for integration is well-described in the book Judge Heaney co-authored with Dr. Susan Uchitelle entitled "Unending Struggle: The Long Road to an Equal Education in St. Louis." His efforts enabled thousands of minority students to improve their educational opportunities.

Judge Heaney's devotion to equality was aptly summarized by then Dean E. Thomas Sullivan on the occasion of celebrating Judge Heaney's first thirty years on the bench:

Gerald W. Heaney has led a life of service. He has served his community, his country, and our future through his vision for education that creates opportunities for, and develops the potential of, all American children. It is through that dedication that Judge Heaney's philosophy of life and law will serve for generations to come, generations which will read the Heaney jurisprudence for its clear message on promoting liberty, on protecting individual freedoms against the tyranny of the more powerful, on ensuring equal opportunity for all people in education, in the workplace, and in living accommodations, and on pursuing the public good through civic responsibility.

At the University of Minnesota Law School, we are proud to call Judge Heaney one of our own. He honors all of us by his life-long contributions to the State of Minnesota and to the University, and, importantly, by sharing with us his

philosophy on the role of public service and civic-mindedness within the legal profession and society. He has left us with an uncommon legacy.

E. Thomas Sullivan, *The Heaney Jurisprudence: Judicial Valor and Civic Responsibility*, 81 Minn. L. Rev. 1087, 1092-93 (May 1997).

Other areas of the law deserving special mention include Judge Heaney's opinions in criminal and civil rights matters, his opposition to the death penalty, his prescient criticism of mandatory sentencing guidelines, and a leading opinion in social security disability law, which enabled thousands of individuals to qualify for disability benefits in part based on a claimant's own statement of pain where buttressed by other trustworthy evidence. Judge Heaney also wrote law review articles in the areas of affirmative action, the federal sentencing guidelines, desegregation, and labor relations.

This decorated war hero, stalwart defender of individual liberties, and civic-minded citizen was recognized through numerous awards, including an Outstanding Achievement Award from the University of Minnesota Regents (1967), an honorary doctorate degree from the University of Minnesota (2001), St. Thomas College Alumnus of the Year (2002), and the Hubert H. Humphrey Public Leadership Award (2004). Among the greatest honors bestowed upon this modest and quiet mannered judge from Duluth was that which occurred on October 6, 2007, when the United States recognized Gerald's great contributions to the law and his country by renaming the federal building in Duluth the "Gerald W. Heaney Federal Building & United States Courthouse & Customhouse."

Gerald is survived by his wife of sixty-four years, Eleanor, two children, William and Carol, a sister, Elizabeth Majerus, six grandchildren, and eight great-grandchildren. Fortunately for this court and future generations, Gerald's legacy of service endures in his opinions and the many lives he has touched, including his scores of former law clerks.

This tribute to Gerald Heaney would not be complete without Gerald's story "My Special Flag" which is attached. Mr. Chairman, in honor of Judge Gerald W. Heaney, I respectfully move for the

adoption of this resolution and request that it be distributed to the members of Judge Heaney's family.

MY SPECIAL FLAG

The war in Europe was over. The Russians decided that they should have a victory parade in Prague. Not to be outdone, the Americans decided to have a victory parade in Pilsen. The American High Command decided that the 2nd Ranger Battalion should lead the parade. The problem was we didn't have a flag. Our Commanding Officer, Colonel Arnold, ordered me to find a flag – not an easy assignment. No American unit wanted to give us a flag, so my only alternative was to have one made. I searched the city for someone who would sew a flag, but no one had the cloth.

Sergeant Yates and I went into Prague to find someone. We drove up and down those streets with no success. Years of war and rationing had taken their toll. Finally, we found a seamstress shop operated by two ladies who were supporters of the Americans. They had cloth and were honored to sew the flag. Working all that day and night, they completed the flag by the time we returned the next day. They refused to take money for their work.

It was a glorious flag. We carried it proudly in the victory parade and were the envy of all other units.

When the parade was over and we returned to the bivouac area, I retrieved the flag from the men who carried it, folded it properly, placed it in my foot locker, and brought it home.

I have flown the flag on many occasions and have told its history to many groups. That flag is my most precious possession. It is a constant reminder to me of the ultimate sacrifice made by so many of my friends and fellow soldiers in the 2nd Ranger Battalion.

– Gerald Heaney