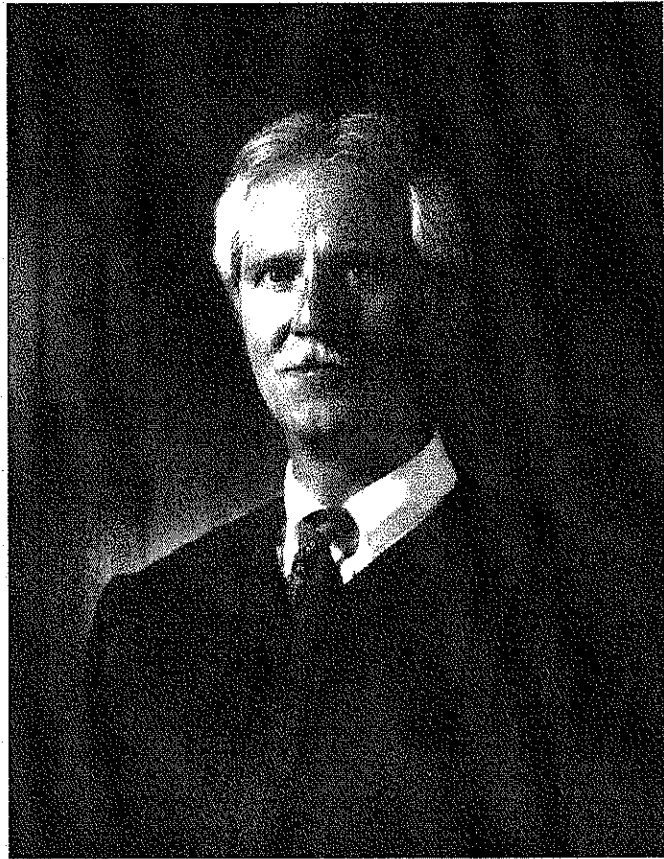


Nebraska Court of Appeals

In Memoriam

JUDGE WESLEY C. MUES

Nebraska Court of Appeals Court Courtroom
State Capitol
Lincoln, Nebraska
June 5, 2001
10:00 a.m.



JUDGE WESLEY C. MUES (1948-1999)

IN THE COURT OF APPEALS OF THE STATE OF NEBRASKA

IN THE MATTER OF)
JUDGE WESLEY C. MUES)
MEMORIAL)

Proceedings held before the Nebraska Court of Appeals at
10:00 a.m., June 5, 2001 in the Nebraska Supreme Court courtroom,
State Capitol, Lincoln, Nebraska.

COURT OF APPEALS:

Chief Judge John F. Irwin
Judge Edward E. Hannon
Judge Richard D. Sievers
Judge Everett O. Inbody
Judge Theodore L. Carlson
Judge Frankie J. Moore

SUPREME COURT:

Chief Justice John V. Hendry
Justice John F. Wright
Justice John M. Gerrard
Justice Kenneth C. Stephan
Justice Michael McCormack
Justice Lindsey Miller-Lerman

I-N-D-E-X

<u>SPEAKER</u>	<u>Remarks</u>
Honorable Teresa K. Luther	5
Mr. John Sennett	9
Mr. Thomas Monaghan	11
Honorable Graten Beavers	14
Dr. Steve Bennett	19
Mr. Scott Sidwell	25
Mr. Doug German	28
Honorable Warren K. Urbom	31

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1 (At 10:00 a.m., the following proceedings were
2 held.)

3 JUDGE IRWIN: Good morning. The
4 Nebraska Court of Appeals is sitting today in a
5 special ceremonial session to honor the life and
6 the memory of our beloved colleague Judge Mues.

7 I'd like to begin, first of all, by
8 introducing the Nebraska Supreme Court to you, if I
9 may. I'd like to start with the Chief Justice,
10 Chief Justice Hendry. Next to him is Judge Wright,
11 who formerly served on the Court of Appeals. Judge
12 Gerrard. Next to him is Justice Stephan. And in
13 the second row -- and there's no pecking order to
14 that, I don't think -- we have Justice McCormack
15 and Justice Miller-Lerman, who also served on the
16 Court of Appeals and served with Judge Mues.

17 I'd like to also take this opportunity to
18 introduce to you my colleagues on the Court of
19 Appeals. And if I could I'd just like to start
20 with two of the original members of the Nebraska
21 Court of Appeals, starting first on my left with
22 Judge Sievers, who was our first chief judge, and
23 on my immediate right is Judge Hannon, and I also
24 was one of the original members of the Court of
25 Appeals when we were appointed back in 1991. On my

1 left next to Judge Sievers, Judge Carlson. Next to
2 him is Judge Moore. And over on my right next to
3 Judge Hannon is Judge Inbody. I'm going to save
4 Judge Inbody just for a minute.

5 I would like to thank the Supreme Court, first
6 of all, for allowing us to have this ceremony here
7 today in their courtroom. The reason for that is
8 our courtroom is presently unavailable because of
9 Capitol repairs. And we've been sitting here in
10 the Supreme Court for many, many months now and
11 it's through your graciousness we have been. It's
12 a wonderful place. It's an honor to be here.

13 And last I'd like to thank two more people.
14 The first is Judge Inbody. Several months ago the
15 Court decided that we would like to have a special
16 ceremonial session to remember Wes. And volunteers
17 were asked for and Judge Inbody volunteered without
18 a moment's hesitation. And he is the person who
19 has been behind the scenes organizing this entire
20 affair, together with some members of the court
21 administrator's office, not the least of which is
22 Janet Hammer, who I believe is here somewhere.

23 Lastly, I'd like to introduce Judge Teresa
24 Luther. One of the tasks that Judge Inbody had was
25 to contact a person who would act as a person to

1 introduce all of the speakers, help recruit the
2 speakers. She knows some of the people that were
3 closest to Judge Mues. So with that I'd like to
4 thank you, Judge Luther. And if you're ready to
5 proceed.

6 JUDGE LUTHER: May it please the
7 Court, members of the Court of Appeals, the Supreme
8 Court, Dwana, Adam, Colin, Mrs. Debban and members
9 of Wes's family and his friends:

10 Although more than a year has passed since Wes
11 died, the impressions of his personality and spirit
12 remain vivid in the minds of family and friends. I
13 am honored to have been asked to serve as chair of
14 the committee for the purpose of memorializing
15 Wes. I appreciate those who have agreed to pay
16 tribute to their friend. And while many have
17 expressed concerns about their ability to do public
18 speaking, all are honored to have the opportunity
19 to do so.

20 I was fortunate to have had an office next to
21 Wes for 13 years and then to have him swear me in
22 as a district court judge -- exactly two weeks
23 after he joined the Court of Appeals. When I first
24 joined the Knapp law firm I quickly recognized Wes
25 as an extraordinary lawyer. He gave his clients

1 his time, his attention and his excellent legal
2 work. They in turn gave him their admiration.
3 Many of his clients upon learning of his death
4 called to express to me how important Wes had been
5 in their lives.

6 Wes was also an invaluable legal resource to
7 our firm. It was a treat to dissect cases with him
8 and discuss the possibilities and the pitfalls of
9 each scenario. He was as good as any legal
10 reference book and could often cite cases from the
11 top of his head. His devotion to his work, though,
12 sometimes made him a difficult partner. No one
13 could work harder or longer hours than he did.
14 Even though some of us were his contemporaries, we
15 still looked to him for leadership. And he was
16 often the chosen mentor of many of the new
17 associates.

18 Wes liked words and language. This was borne
19 out by his personal library in his office. Spread
20 among his legal resource books were poems by Emily
21 Dickinson, The Prophet, Walt Whitman and books of
22 famous quotations. And when he wrote it was always
23 a work of art. Even his interoffice memos were
24 done with a flair. His mastery of writing and
25 language were one of the reasons the Court of

1 Appeals was ideal for him. He loved to research
2 and write and was a true scholar of the law. He
3 possessed an ability to quickly grasp the issues
4 and analyze all the attendant possibilities.

5 But Wes was not as directed in other facets of
6 his life as he was in the law. In a state of Big
7 Red mania, Wes was undecided which direction to
8 take. He alternately took pride in his disinterest
9 in the Huskers and then would surprisingly exhibit
10 behavior which showed a desire to fit in. I
11 remember one time when he came into my office and
12 started talking about the upcoming Saturday
13 football game. It was apparent he had been boning
14 up on the strategy of the opposition and the NU
15 depth chart as he casually dropped the name of the
16 third string I-back and opined on the
17 predictability of the first down run up the
18 middle. Before that day I had no reason to believe
19 that he had ever known who Turner Gill was or knew
20 that Nebraska ran the I formation.

21 Like many, Wes would tongue in cheek refer to
22 himself as a poor country lawyer. In some ways
23 this was partially true. He fondly referred to his
24 early years in Arapahoe where his family did not
25 yet have indoor plumbing and took baths in a big

1 tub. His agrarian leanings were also borne out by
2 his love of gardening and landscaping. His office
3 was next to the Clerk of the District Court's
4 office and he often questioned the women in there
5 about their choice of shrubs. One told me she
6 can't visit a plant store or nursery today without
7 thinking of Wes. And consistent with his desire to
8 thoroughly study anything he had an interest in, he
9 took a landscaping class so he could personally
10 reconfigure his own acreage. And who could forget
11 his John Deere tractor -- his pride and joy.

12 When I spoke with Dwana last week we talked
13 with some hesitation about the memorial service.
14 It would be difficult but it would also be a
15 wonderful opportunity for Adam and Colin to hear
16 the tributes to their dad. She expressed that she
17 wanted to do it for Wes and that he would enjoy the
18 ceremony. Her words were that he would be
19 dancing. She explained the unusual terminology to
20 me. Wes loved to dance and he would insist that
21 they dance every dance at their dance club
22 dinners. After our conversation I believed that it
23 was no coincidence that I was drawn to this passage
24 from the Prophet:

25 Only when you drink from the river of silence

1 shall you indeed sing.

2 And when you have reached the mountain top,
3 then you shall begin to climb.

4 And when the earth shall claim your limbs,
5 then shall you truly dance.

6 At this time I would ask friends and
7 colleagues of Wes to address the Court. If it
8 please the Court, may I call on John Sennett of
9 Broken Bow to offer his remarks?

10 JUDGE IRWIN: Good morning.

11 MR. SENNETT: Good morning. I'm
12 always nervous when I stand here. So you'll have
13 to put up with that. Your Honors, may it please
14 the Court: first I want to say how honored I am to
15 be asked to speak today.

16 I also acknowledge to you that I'm one of
17 those that Judge Luther mentioned that has some
18 trepidation about public speaking and so I hope
19 you'll bear with me on these comments.

20 We all come here today to honor our friend
21 Wesley C. Mues. I hope you'll understand that I
22 won't talk about Wesley Mues. I'll talk about my
23 friend Wes.

24 The other speakers today will no doubt speak
25 of Wes's many accomplishments. They will speak of

1 his family, they will speak of the sterling trial
2 career, they will speak of his actions as a
3 jurist.

4 I can't speak about Wes's wisdom and his
5 decisions from the bench. His legal analysis was
6 always far ahead of mine. I can't speak of his
7 trial expertise because the cases he handled
8 weren't in the small claims court area where I
9 excel.

10 I can say that his wife and his children were
11 always in the forefront of his mind. That we never
12 met, we never saw each other when they weren't a
13 major part of our conversations.

14 My remarks, thank God, will be brief. But
15 they are directed at my friend Wes. Wes, if you
16 were seated here today with your peers I would say
17 to you, your word was always your bond. You always
18 cared about those around you. Your smile was
19 infectious. Your analysis was thoughtful and
20 concise. Your advice was always sound and honestly
21 given. Your loyalty to your friends and clients
22 was unshakable. Your wit and humor was dry and
23 funny. Your friendship was and is treasured.

24 Thank you, Wes, for the friendship. Thank you
25 for the memories.

1 Thank you.

2 JUDGE IRWIN: Thank you.

3 JUDGE LUTHER: I am pleased to call on
4 Tom Monaghan of Omaha to pay tribute to Wes.

5 MR., MONAGHAN: I thought I was going
6 to be third. I didn't want to have to follow
7 Sennett. He stole my speech. So read what I
8 printed up because this will change some because of
9 having to follow the poor country lawyer who is a
10 good public speaker.

11 May it please the Court: this is my first
12 opportunity to appear in front of any of you, and
13 I'm happy to do that. I would have rather Wes
14 would have been here. But Judge Moore is a
15 wonderful replacement.

16 Supreme Court, Dwana, Adam, Colin: it is an
17 honor for me to be here to speak about my friend
18 Wes. And I'm not here as a lawyer, you're going to
19 hear from other lawyers, I'm not here as a
20 classmate, one of you is, others will speak. I
21 never read any of his opinions. In my job I
22 worried more about what Judge Urbom had to say than
23 what this court had to say.

24 But I knew him as a friend and that friendship
25 started really after law school when he threw a

1 party, he and Dwana threw a party. It was one of
2 those adult parties after law school and it turned
3 in to be kind of dignified and a little boring.
4 And at 10:00 o'clock everybody was gone but my wife
5 and I. And Wes grabbed me and said, you can't
6 leave. And we didn't. And we spent to the wee
7 hours of the morning sitting listening to Roberta
8 Flack and drinking Bond and Lillard, which is
9 probably the worst whiskey ever made. And it's the
10 one that Wes loved the most.

11 We became fast friends. We spent weekends
12 together. We walked into each other's houses and
13 we began giving each other advice, which really is
14 kind of the meat of what I wanted to say. I think
15 in many ways I'm responsible for Wes's success
16 because I gave him a lot of advice.

17 I told him not to go to Kearney. I told him
18 not to move to Kearney, he wouldn't like it. And
19 he loved it. I told him that when he first applied
20 to be a judge that he wouldn't like the process and
21 he ought not do that. And yet he wasn't put off by
22 the process.

23 And he tried again. I told him this time he
24 wouldn't like it, he wouldn't like the loneliness
25 of being a judge, he would miss the practice of

1 law, he wouldn't like the work, the term papers
2 that you have to write every couple of weeks. And
3 I was right about part of it, he missed the
4 practice and he missed working with clients. But
5 he loved the rest of it.

6 I used to come see him in his office and he
7 creaked the window open because he was in a
8 nonsmoking area. And I don't know why he had the
9 window open, but he loved sitting at the computer.
10 And he loved writing and he loved trying to make
11 his opinions as perfect as they could be.

12 But I'm really here as a friend. And a friend
13 that stayed with me for a long, long time. Even
14 though we were far apart and we didn't see each
15 other often, we talked often. As I said, I gave
16 him his bad advice. He always gave me good advice,
17 but I never followed it. So I suppose we're even.

18 But everybody in this room was his friend.
19 And all of us loved him. And we will continue to
20 love him. And there will be a huge, great loss in
21 this community. Not because of the qualities that
22 he exhibited as a lawyer, not because of the
23 qualities of his scholarship and writing opinions,
24 although those will last for a long time.

25 Some will miss him as a father, some will miss

1 him as a husband, but all of us will miss him as a
2 friend.

3 Thank you.

4 JUDGE IRWIN: Thank you, Mr.
5 Monaghan.

6 JUDGE LUTHER: Judge Graten Beavers
7 practiced with Wes for 11 years before he took the
8 bench in 1991. May Judge Beavers address the
9 Court?

10 JUDGE IRWIN: Good morning.

11 JUDGE BEAVERS: Good morning. May it
12 please the Court, family, friends and colleagues of
13 the Honorable Wesley C. Mues:

14 I've never forgotten the first time that I met
15 Wes in September of 1979 when I interviewed for a
16 job with the Knapp law firm in Kearney. After my
17 interview with Mr. Knapp, he introduced me to Wes
18 who then shook my hand. To say that Wes had a firm
19 handshake is a gross understatement. I had to grin
20 and bear the firmness of his larger hand, which
21 nearly brought me to my knees.

22 Shortly thereafter I became a member of the
23 firm and Wes and I remained partners for 11 years
24 before I took the bench in 1991. Judge Luther came
25 to the firm in 1981 and it was there that I formed,

1 with the two of them, among the most meaningful of
2 the relationships that I've had in my lifetime. I
3 learned over the course of those years that Wes's
4 firm handshake belied his gentle and caring
5 nature.

6 In preparing for this talk I asked Ms. Patti
7 Swift, who was a secretary with our firm during
8 those years, what she remembered most about Wes.
9 Patti reminded me that Wes was always quick to ask
10 about the well being of our children, spouses,
11 parents or other family members with whom he was
12 acquainted. Even if you had met Wes only recently,
13 you had the feeling that he was interested in you,
14 and that he was someone that you could trust.

15 Wes often talked of his family. He would
16 mention things that Dwana was doing in school when
17 she was obtaining her masters degree, and later
18 about her work. He also talked lovingly of his
19 sons, Adam and Colin, the ball games and other
20 activities they were engaged in when they were
21 younger and their educational pursuits later on.

22 In the years that Wes and I were partners I
23 constantly consulted him on cases that I was
24 handling. There was absolutely no one better to
25 sit around with and discuss the law or strategy to

1 apply in a given case. Wes always gave very freely
2 of his time and always brought to the discussion an
3 angle, thought, or strategy which I had not
4 previously considered. Because of his prior
5 experience clerking in federal court, when I had a
6 case pending in that court Wes was particularly
7 helpful in guiding me through the bewildering maze
8 of federal procedure.

9 We always celebrated the end of successful
10 cases in our firm, usually with champagne in the
11 library. On one such occasion as Wes opened a
12 particularly volatile bottle the cork shot out,
13 shattering the plastic covering on the overhead
14 florescent lights. There are many similar events
15 of a minor nature etched in my memory. Wes also
16 distinguished himself as the only one in our firm,
17 including the very talented Jim Knapp, to settle a
18 case for one million dollars and later to obtain a
19 jury verdict for 1.6 million dollars in personal
20 injury cases. He was simply an extraordinary
21 lawyer.

22 Most of you who knew Wes knew that he had a
23 keen intellect and quick wit. However, Wes was not
24 generally one to do today what could be put off
25 until tomorrow. In fairness, this may have been

1 due to his heavy work load and constant improvement
2 of product as much as procrastination. I remember
3 numerous instances, however, in the days before fax
4 machines and overnight couriers when Wes's
5 secretary would deliver a brief to the Supreme
6 Court the day it was due by driving it to Lincoln.

7 Wes very often worked long hours and late
8 nights. Many is the time I would work from 7:00 to
9 10:00 in the evening and go home. Wes would often
10 stay until midnight or later. You always knew if
11 Wes was under the gun for a brief or other project
12 because his door would be closed and he often would
13 have a piece of paper taped to his door imploring
14 the rest of us to "please leave me alone". At such
15 times only his secretary, Judy Heisermann, was
16 permitted admittance and for the most part we
17 respected his wishes. Wes was one of the hardest
18 working attorneys I have ever known. Still, it
19 seemed he would make time for the rest of us when
20 we needed him.

21 When Wes became a member of the Court of
22 Appeals in 1994, within a few weeks of Judge Luther
23 taking the bench, it was as though we were all
24 together again working toward our common goals.
25 When he was on the Court of Appeals, Wes maintained

1 his office in Kearney just across the hallway from
2 county court. This allowed us to continue and
3 renew our access to each other where we
4 periodically discussed legal issues of interest to
5 the two of us. We went to lunch at least every
6 month or two. Sometimes he and I, along with Judge
7 Jorgensen and Judge Icenogle, as all of the judges
8 in Buffalo County would go to dinner together. I
9 will always remember these times which promoted an
10 even greater spirit of camaraderie and greater
11 understanding among the various levels of Nebraska
12 courts.

13 I will always cherish the years that I had
14 with Wes as a partner and as Nebraska judges. Wes
15 was one of the best and most enduring friends that
16 I've had in my lifetime. There's a picture hanging
17 in my office, as there is in Judge Luther's office
18 and as there was in Wes's office, of the three of
19 us taken the day Teresa was sworn in as a district
20 judge. That picture and the memories it evokes
21 reminds me every day of my legal heritage, the
22 importance of long lasting friendships and just how
23 temporary and precious life really is.

24 I have my old friend Wes to thank for many of
25 the lessons I've learned in law and in life.

1 Although I didn't see Wes every day or even every
2 week during the last seven or eight years of his
3 life, knowing he was there was a great comfort to
4 me. And I miss him still.

5 Thank you very much for the honor of allowing
6 me to express my thoughts on this extraordinary
7 individual.

8 JUDGE IRWIN: Thank you, Judge
9 Beavers.

10 JUDGE LUTHER: Dr. Steve Bennett of
11 Kearney, Nebraska is a close friend of Wes and
12 Dwana. If it please the Court, may Dr. Bennett
13 address the Court?

14 JUDGE IRWIN: Good morning, Doctor.

15 DR. BENNETT: Good morning. It may
16 seem strange that a doctor is standing in front of
17 the Supreme Court, but Wes would have been
18 intrigued by that idea.

19 Other than family, most of the people that are
20 here today to remember Wes were colleagues, fellow
21 students at law school, fellow lawyers and fellow
22 judges. And most everyone in this room has known
23 Wes and Dwana for a longer period of time than my
24 wife Mary and I. But with all due respect to this
25 court which Wes revered, with all due respect to

1 the judges and justices that Wes was honored to
2 serve with, to the profession of law that Wes
3 loved, there was so much more to Wes than a stellar
4 career as a lawyer and judge. This is the Wes that
5 I would like to portray today: a husband, a
6 father, and a friend.

7 To all the lawyers that are here, most of you
8 will understand that he devoted so many nights and
9 weekends to his clients because he cared about them
10 and he cared about their problems that he was bound
11 to solve. But he was always there for Adam at his
12 basketball games and his tennis matches. As a
13 judge he devoted his mind to the pressing issues of
14 the day, but Wes always was there for Colin for his
15 football games on Friday nights and the endless
16 summer of baseball. There were days that Wes
17 traded his cherished judicial robe for an apron,
18 cooking hot dogs with Dwana at the baseball fields
19 concession stand.

20 Mary and I, along with our friends Jerry and
21 Tami Hellman, shared our family vacations with Wes
22 and Dwana. And the six of us shared the joys of
23 watching our combined six children grow and become
24 personalities of their own and together a family
25 among themselves.

1 For 15 years our family went on such trips as
2 camping and tubing at Long Pine, where Wes always
3 reminded us that the water temperature felt like 10
4 below zero. We went horseback riding at Platte
5 River State Park where the temperature outdoors and
6 in our cabin was a little over 106 degrees.
7 Unfortunately, it took Wes and I three days to find
8 the air conditioned lodge on the last day of our
9 three day vacation. We became adventuresome and
10 went jet skiing and rented a house boat at Lake
11 Okoboji, only to find that the lake was turning
12 over and everything became stained green.

13 When the children were older it was time for
14 the six of us to spread our wings from the comforts
15 of Nebraska and to go to such places as Cape Cod,
16 Massachusetts, Grand Lake, Colorado, and Hilton
17 Head, South Carolina. The memories of these trips
18 and all of our family trips will last forever.

19 The laughter, the singing around the campfire,
20 remembering how one of us fell asleep on the beach
21 in Hilton Head while the rest took a walk and when
22 we returned two hours later Wes was sitting there
23 still asleep looking like a New England lobster.

24 Remembering the sight of one of us jumping off
25 the house boat to show they could still do a

1 cannonball, only to find that there was no ladder
2 to climb back up on. And yet we laughed and
3 forever had stories to tell, no matter how bad it
4 sounds to you today. It was the glue that bound
5 our lives together in friendship and in love.

6 The Hellmans had two girls, Mary and I had two
7 girls, and Wes and Dwana had two boys. And there
8 were many times that we each adopted each other's
9 children as our own. Although Wes may not have
10 been able to understand the intricacies of the
11 female sex during teenage years, he always had
12 something kind and complimentary to say to our
13 children and our children remember that kindness of
14 Wes to this date.

15 Wes wasn't perfect. But as a friend I cannot
16 remember in 21 years when we had harsh words with
17 each other or said things that we regretted.
18 Unfortunately we both had the bad habit of smoking
19 cigarettes. I lost count of the times that we
20 quit, both together and by ourselves, only to find
21 that each of us were chewing Nicorette gum or
22 wearing the patch. But truly there was only one of
23 us that chewed the gum, wore the patch and smoked
24 at the same time.

25 You may be surprised to hear that in high

1 school Wes played football and he was considerably
2 bulkier than he was in his adult days. Now, I've
3 always had a problem with weight. And Wes, well,
4 Wes always thought he had a problem with weight.
5 But I stopped sharing diets with Wes when a mutual
6 friend introduced us to the infamous cabbage soup
7 diet. Wes ended up loving that diet, and he loved
8 cooking that soup even when he didn't want to
9 diet. And I was still trying to figure out how my
10 system could respond to the overload on cabbage.

11 Wes truly loved his heritage and his family
12 roots, no matter how humble they were. It took 20
13 years for Mary and I to go with Wes and Dwana to
14 their hometown of Arapahoe. It was the 4th of July
15 1999, and it was one of the hottest and windiest
16 days of that celebration. We toured the quilt show
17 at the Arapahoe Community Center and Wes reflected
18 on his childhood with so much pride as he showed us
19 the home where he grew up and the present home of
20 his mother. And we spent the day watching the 4th
21 of July parade in front of Ward's law firm,
22 comfortable in small town America sitting on lawn
23 chairs with a few well used soft cushioned legal
24 chairs.

25 We stopped at Dwana's brother Kevin's home and

1 Wes seriously told Kevin, "Dr. Bennett is really
2 interested in learning more about the physics of
3 fireworks." The problem was, unfortunately, that
4 Kevin took Wes seriously and I politely had to
5 stand there and listen for the next 45 minutes
6 while Wes, my friend, was sitting in the corner
7 with his typical devious Mues smirk. He felt at
8 home, though, and he was comfortable with his birth
9 place of Arapahoe and he was at ease with those
10 persons he loved.

11 Wes loved the written word, as Teresa had
12 previously said, and he took his professional
13 responsibility to write extremely seriously. It
14 may not surprise many of you that Wes really did
15 love the dry wit of Garrison Keillor. But Wes may
16 have surprised some by his love of poetry. He
17 spent two hours listening to the real Dr. Patch
18 Adams recite poetry one evening when Patch Adams
19 was a guest at my home. And Wes repeatedly said
20 that he could have spent more than one evening
21 listening to the beauty of the words of poetry.

22 My life and the lives of so many were made
23 much more complete just by knowing someone like Wes
24 who gave so much more than he received and had
25 compassion and love for his friends. A little of

1 me died along with Wes that day in October, but the
2 memories are still here. The legacy of Wes
3 unfortunately may not be in his legal opinions
4 because his brilliance was extinguished way too
5 early. But his legacy will live on in the lives of
6 all of us in this room if we do one thing every day
7 that would make Wes proud. Look into the eyes of
8 Adam and Colin and you will see Wes and those eyes
9 are twinkling back at you like he was here with us
10 today.

11 Shalom, my friend.

12 JUDGE IRWIN: Thank you.

13 JUDGE LUTHER: Scott Sidwell of
14 Kearney, Nebraska is a former law partner, neighbor
15 and friend of Wes's and will offer his remarks.

16 JUDGE IRWIN: Good morning.

17 MR. SIDWELL: Good morning. Your
18 Honors, may it please the Court, members of the
19 Court of Appeals, members of the Supreme Court,
20 Dwana, Adam, Colin, members of Wes's family and
21 friends:

22 I was privileged to practice law with Wesley
23 Mues from 1976 to 1982. And more significantly,
24 Wes was my friend, colleague and mentor.

25 When the day came in March 1982 that our

1 professional paths diverged, it was a difficult and
2 traumatic day. One of the last things I did when
3 we parted that day was to give Wes a soap stone
4 carving of a Sioux Indian warrior that had always
5 sat on my desk and that Wes had always been fond
6 of. There was an inscription on the base: "Today
7 is a good day to die."

8 My understanding of the meaning of that phrase
9 has changed since that long ago day. I know now
10 that it speaks not only of meeting a life and death
11 challenge with courage but its deeper meaning, its
12 more important meaning, relates to how we live our
13 lives.

14 That is what gives the phrase special meaning
15 for me when I remember my friend Wes and why it
16 came to mind as I thought about what I would say
17 today.

18 "Today is a good day to die" is not about
19 death. It is about doing what is right in the face
20 of all odds. It is about championing the things
21 that are universally recognized as good; things
22 that all mankind in every culture and every age
23 have revered.

24 Things like being a good father, husband,
25 friend, being a good provider, being honest,

1 forthright, loyal, standing up to the bully. Being
2 mindful of the needs of others less fortunate,
3 sharing. Being willing to contribute talents and
4 insights gained from experience. Literature
5 throughout recorded history has itemized these
6 virtues which we ascribe to our heroes.

7 I do not have to make Wes a larger than life
8 hero to tell you the man I knew was a good father,
9 husband, friend. Honest, compassionate,
10 charitable. And in the face of great challenge I
11 always found confidence and reassurance knowing Wes
12 was there too.

13 "Today is a good day to die." The inscription
14 on the soap stone warrior I gave Wes 19 years ago
15 was a memento of our friendship and I recognize now
16 how often it reflected how Wes lived his life. And
17 that is why it has even more special meaning
18 today.

19 Thank you.

20 JUDGE IRWIN: Thank you.

21 JUDGE LUTHER: If it please the Court,
22 I would ask Doug German, former classmate, and
23 friend of Wes, to make a few comments.

24 JUDGE IRWIN: Good morning, Mr.
25 German.

1 MR. GERMAN: Good morning. Members of
2 the two courts, family members, friends, may it
3 please the Courts:

4 Gandhi said something to the effect: we gain
5 our compassion from our suffering. And a wise
6 friend taught me that humor is the ability to get
7 distance from one's self. And that same wise
8 friend taught me the importance of meekness; the
9 ability to be patient and mild, not resentful.
10 These qualities of character are what endeared Wes
11 to me. His compassion, his humor, and his
12 meekness. Meekness in the very best sense of that
13 word.

14 Wes and I entered law school at Nebraska in
15 the fall of 1969. We had already witnessed the
16 three assassinations, the civil rights movement and
17 city riots. We were in the midst of the war in
18 Vietnam. A large number of our class members were
19 Vietnam veterans recently returned. And we were
20 about to experience Watergate. Drugs, sex and rock
21 and roll was the mantra.

22 Those were exciting and difficult times. We
23 were becoming lawyers at a time when our
24 institutions were being questioned and challenged.
25 And it was a time when core values were tested.

1 Fundamental values like accountability, fairness,
2 equality and justice were asserted, challenging the
3 norm, country right or wrong, the establishment.

4 I remember clearly something that C. P. Snow,
5 a renowned English philosopher and essayist, said
6 at the time. He observed, the true test of the
7 members of this young generation will be whether
8 they believe in and fight for these same values
9 when they are in their seventies.

10 Wes hung on to the fundamental values he had
11 gained as a youth, he tempered them with what he
12 learned during these challenging times, and I'm
13 pleased to observe that he was true to these values
14 throughout his adult life. I am confident Wes
15 would have met the C. P. Snow test.

16 The world has turned over many times since Wes
17 and I first met in law school. He left a very
18 special impression on me. During the three years
19 we studied together and the times we shared Wes
20 shared his grace, his compassion and wit.

21 His genuineness drew respect from many
22 quarters. He did not have a mean bone in his
23 body. He knew anger. He certainly could dislike
24 someone. He had strong opinions, but seemed to
25 never envy or despise. He did not harbor

1 bitterness. He was a fighter but he had no need to
2 belittle or destroy. He moved on quickly to humor,
3 forgiveness and compassion. The joys of life. He
4 let go. He moved on.

5 I wish Wes could have grown old with us. I
6 wish he could have become an old judge; bored,
7 let's go fishing instead kind of judge. One that
8 could write opinions with a flair, a license and a
9 nothing to lose, no fear abandon. One that told
10 long-winded stories that no one wanted to hear and
11 young attorneys had to sit and listen to like they
12 cared. I wish he could have. I'm angry that he
13 can't.

14 Some time's passed since Wes was taken from
15 our midst and it is now time to begin to move on.
16 There is a life to be led. A life to be enjoyed.
17 A life to try to understand.

18 Some years ago I went to Kansas City to hear
19 Dylan play his music. Dylan, as you may know,
20 every few years takes off in an entirely different
21 direction with his music. This frustrates,
22 disappoints and angers his fans. They want
23 yesterday back.

24 His Kansas City concert was one of those
25 occasions. The fans were stunned. It was silence

1 between songs. Dylan sensed this but wailed and
2 mumbled on, saying nothing all night. Finally, at
3 the end of the last song, knowing how his fans felt
4 and where they were, he leaned into the microphone
5 and said, "I don't know about you, but I'm moving
6 on."

7 I loved this good friend, this good man, Wes.
8 His presence and his being were special. The joy
9 of his friendship will be with me all the days of
10 my life. And now I don't about you, but I'm moving
11 on. As we all must.

12 Thank you.

13 JUDGE IRWIN: Thank you, Mr. German.

14 JUDGE LUTHER: I asked Judge Warren
15 Urbom to speak today not only because Wes had
16 admired him a great deal but because he is Dwana's
17 uncle. May the Honorable Warren Urbom address the
18 Court?

19 JUDGE IRWIN: Good morning, Judge.

20 JUDGE URBOM: May it please the Court,
21 members of the Supreme Court:

22 I speak on behalf of the two families of Wes
23 Mues: the Mues family into which he was born and
24 the Urbom family into which he married.

25 One of us who is here knew Wes as a son. One

1 knew him as a husband. Two knew him as a father.
2 Some of the others knew him as a brother or uncle
3 or nephew. The rest of us knew him as an in-law
4 whom we respected and admired. All of us loved
5 him.

6 My choice is to introduce to you the members
7 of the families who are here. I don't guarantee
8 that my list is perfect. It was changed as I
9 walked in the door, so we shall see. I think it is
10 not necessary that I ask the people whom I name to
11 acknowledge who they are. I don't think that's as
12 important as that you know who is here.

13 His mother, Frances Debban is here. His
14 widow, Dwana is here. His two sons, Adam and Colin
15 and Colin's girlfriend Megan Rierdon are here. His
16 brother, Robert Mues, and Robert's wife, Roxie, and
17 Robert and Roxie's daughter, Jamie Jankovitz, and
18 Jamie's baby daughter, Madison.

19 Wes's brother, Victor Mues, and Victor's wife,
20 Ann, and Stuart Mues. Wes's aunt Luella Ruff, his
21 aunt Fern Noltie. Wes's father-in-law and
22 mother-in-law, Ward and Darien Urbom. Dwana's
23 brother and sister-in-law, David and Chris Urbom,
24 Erin and Sarah. Dwana's brother and sister-in-law,
25 Kevin and Mitzi Urbom. Winnie Mussman.

1 I do nothing more than to do that. And thank
2 you each of you for bringing this memorial to us.
3 And to thank each of the speakers who have spoken
4 so beautifully about the man whom we all knew,
5 admired, respected and loved.

6 Thank you. Thank you.

7 JUDGE IRWIN: Thank you.

8 JUDGE LUTHER: In hearing the parts of
9 Wes's life that other choose to remember and
10 recount, we learn a great deal about learning to
11 live a well-lived life. He told us that there was
12 room for integrity and idealism in the practice of
13 law and in the judicial system, that law was not
14 just a way to live but a way to live greatly.

15 As a teenager I remember reading a book which
16 attempted to help one measure how their life was
17 going. The test was simple. At the end of each
18 day you asked yourself two questions. Are you
19 content with where you've been and are you proud of
20 who you are? At the end of the day on October
21 25th, 1999 I know Wes could answer with
22 confidence: "I'm content with where I've been and
23 I'm proud of who I am."

24 Finally, members of the Court, I move that the
25 foregoing remarks be memorialized in the permanent

1 records of this court and that a copy of that
2 record be presented to the family of Judge Wesley
3 C. Mues.

4 Thank you.

5 JUDGE IRWIN: That motion is granted.

6 I'd like to take an opportunity just to follow
7 up on Judge Luther's request there. For the
8 lawyers, as well as the nonlawyers, members of this
9 audience, this entire proceeding has been taken
10 down by this court reporter over here on my right.
11 Which is a bit unusual.

12 What we will be doing is having this typed up
13 in transcribed form and not only distributed to the
14 family members and some of the members of the bench
15 here today, but this entire service is going to go
16 into what we call the Northwest Reporter, which
17 doesn't mean much to anybody except maybe the
18 lawyers here.

19 But what it is, it's a system that we have
20 that if you have seen law books like this on TV
21 shows, this is the reporter system, made up of
22 hundreds and hundreds of volumes. And the reason
23 that it contains several hundred volumes is because
24 all the opinions that are written by the Supreme
25 Court and the Court of Appeals, the opinions

1 written by Wes, are in there. And now, in addition
2 to those opinions being in there, what is going to
3 be in there is a transcript of what everyone said
4 here today.

5 I think I am very safe in saying that every
6 member on this court would like to have made
7 remarks. I think there are many of you who would
8 have liked to have made your own remarks who knew
9 Wes, lived with Wes. What we did, through Judge
10 Luther and Judge Inbody's efforts, is we tried to
11 recruit the people who we thought could make
12 representative remarks of his life in the
13 profession and his life on the personal side.

14 And I think it's important, and this court
15 thought it was important enough to conduct the
16 session today to put it in the law books, so to
17 speak, so that people could see not just our
18 written opinions but they see the life of the
19 judge, the life of a person.

20 With that, I would like to adjourn this
21 session. But I would invite all of you to stay for
22 as long as you like to greet each other, to visit
23 with each other.

24 And again, to the family, all the friends of
25 Wes, to all the lawyers and members of the

1 judiciary who appeared here today, we thank you
2 very much for being here.

3 This special ceremonial session of the Court
4 of Appeals is now adjourned.

5 Thank you.

6 (10:49 a.m. proceedings adjourned.)

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