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DICK GADBOIS, JUDGE AND FRIEND

*Michael Millman**

Dick Gadbois was a good guy.

I take the liberty of calling him “Dick,” rather than Judge Gadbois, because he always insisted, “Call me Dick,” and this is no time to start disrespecting his wishes.

I met Dick Gadbois when we served together on the Ninth Circuit Death Penalty Task Force, starting in 1987. California and other Ninth Circuit states were faced with a flood of capital cases pouring into the federal courts after state court affirmances. Judges like Dick Gadbois wanted to establish an orderly process for habeas corpus litigation, stays of execution, and the appointment of counsel so that we did not replicate the middle-of-the-night crises of Florida, Georgia, and Alabama. The result was the development, by consensus, of a set of local rules establishing a rational and orderly system that has served us well for the past decade. Dick was particularly proud of those rules, which he considered to be one of his finest achievements.

After that we maintained regular contact. Sometimes when I was in Los Angeles, we’d have lunch together. He would greet me in chambers with a big, “How are you, my friend?,” a question to which he genuinely wished to know the answer. We had a common interest in Sea Ranch, a north-coast community in which I have a small house. He had been chief counsel for Castle and Cook, the previous owner of the land in the 1960s, and we shared an affinity for its terrain.

Dick Gadbois was wonderfully supportive of the California Appellate Project (CAP) and of our work in finding and assisting lawyers to provide high quality representation in capital cases. He was very concerned about the adequacy of counsel for those on death row. I remember him chairing an extraordinary gathering in

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then-Chief Judge Real's courtroom in which he urged members of the private bar, many of them from large civil firms, to take on these cases in order to secure the rights of those sentenced to death and promised the support of the federal judiciary in return.

I do not think the death penalty fit too comfortably with his view of the universe. At the least, he was skeptical about what society accomplishes for all the time, money, and effort that it pours into capital litigation. He could, on occasion, be quite critical of CAP and capital defense attorneys and did not hesitate to tell me so, but he was definitely not into the CAP bashing that erupted after the initial bloom was off and it became necessary to blame someone for the difficulties the system began to encounter.

He had, of course, worsening medical problems, which he minimized so much that I believed he was getting better. But he was not. I am sorry he did not get to enjoy senior status.

What I remember most about Dick Gadbois is his sense of decency. He was a gentleman, an unpretentious man who had little use for all of the political-judicial machinations he saw around him. He liked class. He knew it when he saw it, and it pleased him. He also recognized a horse's ass when he saw one, and he was not afraid to say so.

Lord, he was a breath of fresh air. I miss him.