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One Man's Unwavering Constitution

To the End, Rehnquist Followed His Own Path

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Chief Justice William H. Rehnquist worked until the very end.

It was his way, say those close to him.

He took pride in making sure that the top level of the nation's third branch of government functioned with precision, always on time, cases moving efficiently, one after the other, a system never wavering, never faltering. It was a work ethic and style that earned him the deep respect of his fellow justices, including those who did not side with his conservative philosophy.

And so it was that during the last year of his life, as he battled thyroid cancer until his death Saturday night at age 80, "the Chief" was in his chambers as often as possible. At his desk. Working.

James C. Duff, a former chief of staff for Rehnquist, saw him there as recently as two weeks ago. Rehnquist was there handling court business, Duff says. The two had known each other since the 1970s, when Rehnquist was an associate justice and Duff was working out of Chief Justice Warren Burger's chambers as the senior court attendant.

It was Duff's job to manage the logistics of the court's sessions. He sat behind the justices for four years, from 1975 to 1979, while studying law at Georgetown. Rehnquist was still relatively new to the court back then, having been nominated by President Richard Nixon in 1971.

It was nearly 20 years later, in 1996, when Duff went to work for Chief Justice Rehnquist. They were close colleagues and close friends, Duff says.

"He approached the disease the way he did everything, with energy, determination, focus, discipline," Duff said yesterday, measuring his words through grief and propriety. "He was a very disciplined man. And he had a very strong faith."

The two talked about work and family. It was, says Duff, a personal conversation, a talk between two friends, two men who'd known each other over mountains of time.

But the story of Rehnquist's last year on the court can be told in another way, too, through the press releases that came from his chambers.

For example, this one from October 2004: "Chief Justice William H. Rehnquist was admitted to Bethesda Naval Hospital on Friday, Oct. 22 and underwent a tracheotomy on Saturday in connection with a recent diagnosis of thyroid cancer. He is expected to be on the Bench when the Court reconvenes on Monday, November 1."

When Nov. 1 arrived, the statement from the nation's 16th chief justice went like this:

"I underwent a tracheotomy nine days ago and at the suggestion of my doctors am continuing to recuperate at home. According to my doctors, my plan to return to the office today was too optimistic.

"While at home, I am working on Court matters, including opinions for cases already argued."

On Nov. 26 would come another statement, about another surgery and a fall days before.

He would spend November and December at home. By Jan. 7, another announcement would say that the chief justice would not be present when court convened on the 10th. And no one knew for sure if he would be able to swear in George W. Bush for a second term. But there he was on that cold, crisp day, making his way with slow, stubborn steps.

They were steps that symbolized his love for the law and the high court.

"I know that he loved the court," says Charles Cooper, a former clerk. "He loved it as an institution. He was committed to it, 100 percent, especially after he lost his wife over 10 years ago. It became the central focus of his life. . . . I believe that he was committed to serving his constitutional term so long as his faculties permitted him to lead the court and to function and perform his duties."

Cooper spent some time with Rehnquist in his chambers earlier this summer, a few weeks before the annual reunion of Rehnquist's clerks in June.

"He was in great spirits at the time, perfectly clear and as quick as always. I think shortly thereafter he began another round of treatments and that took a visible toll on him," Cooper says.

But by the reunion, his spirits were back up, says Cooper. Of his more than 100 former clerks, now spread out all over the country, most turned out. "No one laughed louder or longer" than Rehnquist at the skits, which often lampooned him and which had become a tradition.

"He was just a regular guy," says Cooper. "He played poker. His favorite meal [for lunch] was a cheeseburger and a Miller Lite."

It was that regular-guyness, combined with a giant intellect, that his clerks say inspired their loyalty and reverence. The Chief was also known for his humor and practical jokes.

Mark Stancil, who clerked for Rehnquist from 2000 to 2001, recalled one instance when Rehnquist was being driven by a clerk who had not noticed that the red light had turned green. Rehnquist leaned over and said, "That's all the colors they have."

And he was an avid tennis player.

There was a standing doubles match every Thursday, just before lunch, at Hains Point. "For a man of 76, he was amazing," as a player. "You were encouraged not to hold back," says Stancil, who says he and his partner won only one set the entire year.

Richard Garnett, another clerk, even hit the chief justice on the head with the ball a couple of times during matches. Rehnquist, he said, was good-natured about the mistakes. He was always conscious of making sure

the clerking experience was a good one for his staff, Garnett said.

He invited Rehnquist to speak to his law students at Notre Dame a couple of years ago and remembers the passion with which he spoke about the importance of balancing the law and life.

"He was open in saying he hoped young lawyers would be happy in their professions," Garnett recalls.

That balance of law and life came through one other news release from the chief justice's chambers. When the speculation this summer about his retiring was too much to bear, Rehnquist set the record straight in July.

"I'm not about to announce my retirement," he said. "I will continue to perform my duties as chief justice as long as my health permits."

His was a stubborn passion.

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