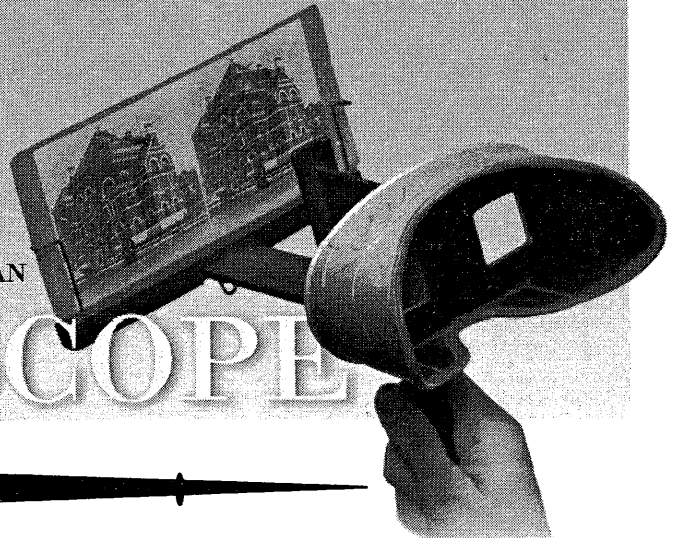


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WESTERN DISTRICT OF MICHIGAN

STEREOSCOPE



Reflections at the Service and Celebration for the Hon. Stephen W. Karr

by the Hon. Hugh W. Brenneman, Jr.

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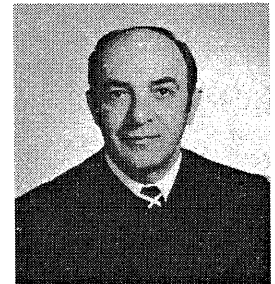
Grand rapids

*November 2, 2007
Fountain Street Church
Grand Rapids, Michigan*

It is my privilege to speak to you this morning as a friend and colleague of Stephen W. Karr, and to share some memories about Steve's years as an attorney and judge. I thank Steve's family for so kindly extending me this invitation.

Author David McCullough says that the hardest part of writing history is to convince the reader that nothing *had* to happen the way it did happen. Steve Karr's story is not only about an immigrant child who rose to become a federal judge, but how he was able to define the very job itself in a time of uncertainty. Had it not been for Steve, the history of our court might well have been different.

Steve was born on the island of Samos, Greece, and came to this country as a baby. He recalled that the first day he was to attend school he balked, and said he was not going to go. His father gave him a couple of swats on the fanny, and that settled him down. That was the only time Steve was on the wrong side of the law. For the rest of his life he was a strong student. He won a Regent's scholarship to the University of Michigan and later was accepted into the University of Michigan Law School.



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His first year as a law student was outstanding, but World War II interrupted his education. Steve joined the army and became a second lieutenant in the artillery. Then one day he received a rather cryptic letter from Washington, D.C., asking him if he wanted to move into a "new" field. This led to a meeting with the Office of Strategic Services, better known as the OSS, the forerunner of the Central Intelligence Agency. The OSS had somehow learned Steve was conversant with Greek, and they wanted him to become a spy. Steve was bored with artillery. He accepted. He was sent to a secret camp outside Quantico, Virginia, where he was trained as part of a three-man team that was to be parachuted behind German lines in Nazi-held Greece. It sounds like something right out of *The Guns of Navarone*.

But it was not to be. Before Steve could get to Greece, the British intervened and said they were sending their own spies into Greece, and they did not want Americans doing the same thing.

As a result, Steve was sent to a school on the Island of Ceylon in the India-Burma Theater to train Indo-Chinese, Thais, Malaysians, and Burmese to blow up bridges behind Japanese lines. Eventually, Steve was promoted to major and became commanding officer of the camp. He supervised 15–20 instructors from all over the world. The former chief of police of Shanghai taught small arms combat; a botanist from the University of Kansas taught the agents how to live off the land. If Steve was not attacking *The Guns of Navarone*, he was certainly running the camp where William Holden trained, before going off to blow up Alec Guinness' *Bridge Over the River Kwai*. For his work, Steve was awarded a peace medal by the king of Siam.

His duty done, Steve returned to class. He had survived the Depression. He had fought in World War II. He was a tried and true member of the Greatest Generation. Like many veterans, he wore military clothes to class because that was all he could afford. But he would need those uniforms, because he transferred to the Army Judge Advocate General's Corps and was eventually promoted to full colonel in the army reserve, where he served as a military judge.

Congress had just authorized federal district judges to have law clerks when Steve graduated from law school in 1947, and on recommendation of a professor, Steve was hired as the first law clerk for U.S. District Judge Raymond Starr in Grand Rapids. He was one of the first such law clerks in the country.

The federal courthouse at that time was the same building that later housed, until quite recently, the Grand Rapids Art Museum. Steve's office was on the second floor, right next to Judge Starr's. On the other side of Steve was the court's tobacco-chewing probation officer. Steve never forgot that the probation officer could hit a spittoon from 10 feet, nor did he forget the "ping" sound the tobacco made when he did so. During the two and a half years Steve clerked for Judge Starr, the team of Starr and Karr was never reversed by the federal Court of Appeals.

Following his stint as a law clerk, Steve moved across the street in 1950 to the Federal Square Building and began private practice with a firm that eventually would become known as Luyendyk, Hainer, Karr, and Edens. For over two decades, he did a variety of corporate, bankruptcy, and estate work. Attorney Norm Kravitz, who worked at the firm and is here today, recalls Steve as the consummate corporate attorney who got to the heart of the matter, and took care of business promptly. Indeed, that has always been his trademark. (Interestingly, one of Steve's partners at the firm was the late U.S. District Judge Douglas W. Hillman, whose life we remembered in this very church less than a year ago.)

It was during this period that Steve also served as a United States commissioner. The office of the commissioner was created in 1793 to provide federal courts with help on minor criminal matters, since travel in those days was hard and judges could not be everywhere. There were eventually as many as 20 commissioners in Michigan at times, and several in Grand Rapids. Since Congress wanted, as commissioners, "discreet persons learned in the law,"¹ it was not surprising that Stephen W. Karr was appointed.

A commissioner had no courtroom nor even an office in the courthouse, and wore no robe, but he was compensated in an interesting manner. A commissioner was paid for each warrant issued and each hearing held. The more warrants issued, the more he was paid. If the commissioner decided there was no probable cause for a warrant, he was not paid. Needless to say, this method was not without its critics. None of this mattered to Steve, who enjoyed a successful private practice. Steve held the appointment from 1950 to 1971.

In 1950, the same year he entered private practice, Steve also met his lovely wife-to-be, Bette. "One of the best things I ever did was to marry this girl Bette," Steve told me. They were introduced by two ladies in the lingerie department at Herpolsheimer's—apparently a "full service" department store. "That," said Steve, "was the start of something big!"

Congress recognized the inadequacies of the antiquated commissioner system and abolished it in the late 1960s, replacing commissioners with a wholly new type of judicial officer—a judge called a United States magistrate. U.S. magistrates were to assist federal district

judges in carrying out their duties. Although magistrate means judge, not everyone was sure what this new creature was. So Congress several years later, apparently feeling a little redundancy could not hurt anything, changed the name to "United States magistrate judge," to make the point clear. Steve thought the title sounded like "United States judge judge."

When the magistrate system was implemented, it provided for one such full-time position to replace the commissioners on the western side of Michigan and in the Upper Peninsula. That position went to Steve Karr in 1971, and he held it until he retired in 1987. It was, Steve recalled, "a happy experience."

Such was Steve's stature, credibility, integrity, and unassuming competence, that his value was immediately and readily recognized by the court in Western Michigan. He was "Judge Karr" from day one, one of the first magistrates in the country to be so addressed.

To understand Steve's contribution as a magistrate judge, you have to remember that when the U.S. magistrate judge system was introduced, it was unique in American jurisprudence. Although Congress has created new federal courts from time to time, this time it had added a second type of judgeship to an existing court, in this case the federal district court. Unfortunately, the willingness of some federal district judges to now share their courts with a new type of judge, albeit one with lesser authority, was problematic at best. There were district judges across the country who thought this new type of judge was of doubtful necessity and certainly not desirable . . . Think of bringing home a new cat, to a house full of dogs.

Indeed, in some districts, magistrates were not allowed to wear the black robe; they had "offices," not "chambers;" "hearing rooms" (sometimes without carpeting, drapes, or furniture), not "courtrooms;" and their secretaries could not answer the phone by saying this is "Judge so-and-so's office." In those districts, there

was to be no question as to who was the real judge. And in some districts where magistrates were not treated badly, they were simply ignored. And yet there were districts that readily welcomed magistrates.

If Congress had in fact created a new type of federal judge, with real judicial duties and authority, and it had, it remained to be determined in each of the 94 districts throughout the United States what this really meant. Congress provided scant guidance.²

But while the scope of the magistrate judge's authority continued to be a source of contention in court-houses and conflicting court decisions across America, and in subsequent congressional legislation, we escaped that struggle in this district. Questions about a magistrate judge's duties, not to mention whether a magistrate judge should be accorded the indicia of his or her office, have never been serious issues in the Western District of Michigan. This was primarily because of one man. Steve's prudent and deliberate approach to asserting the jurisdiction of his office, coupled with his advice and good counsel to the court, allowed the role of the magistrate judge in Western Michigan to become firmly rooted and evolve over time. In his book analyzing the magistrate system, entitled *United States Magistrates in the Federal Courts - Subordinate Judges*, author Christopher E. Smith writes:

"The [district] judges never made any conscious, considered decisions about how magistrates should be utilized [in Western Michigan]. Instead, . . . they learned from the respected [Judge Karr] how the subordinate judicial officers were to be utilized."³

Such was Steve's stature, credibility, integrity, and unassuming competence, that his value was immediately and readily recognized by the court in Western Michigan. He was "Judge Karr" from day one, one of the first magistrates in the country to be so addressed,⁴ although the designation is common today. Quoting again:

"[Steve Karr] always had an extraordinary reputation with the judges and attorneys within the district as an extremely knowledgeable, fair and competent judicial officer . . . He developed such a reputation for expertise . . . that magistrates in other districts mention his name as someone who was able to give advice to new magistrates

throughout the circuit. In fact, because of the reputation he earned, both magistrates and judges . . . sought his advice on how to . . . handle legal matters."⁵

Steve's long-time colleague, the Honorable Paul Komives, a fellow magistrate judge also appointed in 1971 and still sitting in Detroit, summed it up well when he said he always considered Steve the dean of the magistrate judges in Michigan.

Paul was not alone. The members of the Federal Magistrate Judges' Association repeatedly elected Steve as the Sixth Circuit's representative to its national governing board.

And in 1987, Steve received the Service to the Profession Award from the Western Michigan Chapter of the Federal Bar Association for his work in the federal court. Indeed, only six people have ever received this award, and Steve was the second. Judge Wendell Miles, who is here today, was also a recipient.

Clearly, a signal honor.

As a result of the efforts of Steve and others like him, the new judicial animal Congress gave birth to in the early 1970s has now become an accepted part of the American judiciary. In this past year alone, magistrate judges decided over 950,000 matters and conducted approximately 15 percent of the civil trials in federal courts.

By bringing his expertise and common sense to bear, Steve was able, seemingly without effort, to help our court avoid the years of infighting suffered by some other districts. It is for his implementation of the magistrate judge system, almost under the radar, and his ability to win the war without fighting it, that he must be so favorably remembered. Unfortunately, to paraphrase McCullough, it is hard to convince a contemporary observer that the unqualified acceptance of an entirely new office in this federal court by no means had to happen the way it did happen.

Nor did Steve's efforts ever cease. When I was privileged to fill a second magistrate judge slot, which Congress created nine years after Steve's, Steve saw to it that I was made a full partner.

He shared his courtroom with me, which was fortunate because it took the government eight years to build mine.

He shared his chambers with me, allowing me to hang my robe in his closet so that I would not have to carry it up five flights of stairs every day. Although this caused us to refer to his office as my “robing room,” this was important because it provided us a daily opportunity to meet, to talk over cases, and to discuss the health of the world generally.

And, of course, he gladly shared his cases. The first day I took office, Steve with a smile wheeled in a shopping cart with 300 Social Security appeals—one-half his load at the time—for me to handle! But our relationship as colleagues was immediate and to my mind never faltered. We treated each other as equals because that was the tone he set.

Allow me to conclude with a couple footnotes: Steve’s decisions were scholarly but concise, carefully organized in neat handwriting on countless yellow legal pads. Part of this, of course, was due to the lack of even a memory typewriter for most of his career. His secretaries at court, Rose Wilson and later Linda McCartney, would willingly retype a draft of an opinion once, but one was well advised to get it right the second time. Steve was not only the author of his own decisions, but often the confidante of other judges on theirs, a perfectly acceptable practice, but a tribute to the man. He, like Judge Starr, was seldom reversed. And this may have been due, in part, to his own law clerks, Ralph, Tom, Terry, and Karen.

Steve did not seek the limelight, but occasionally his cases could reach the paper. He enjoyed telling the story about the day before Christmas when a U.S. Marshal brought in a man dressed as Santa Claus who had tried to rob a bank. Steve went through the usual procedures with the man, they wished each other Merry Christmas, and Steve sent the man off to jail. The *Grand Rapids Press* identified Steve as the judge who put Santa Claus in jail on Christmas Eve!

And of course, Steve’s work constantly dealt with cases filed by discontented prisoners. One of these guardhouse lawyers, on hearing of Steve’s retirement, wrote him the following letter:

Over the years, since 1971, I have helped many an inmate perfect appeals unto that court. Just as often as not, we have bumped up against you making findings and recommendations. We won very few and lost many. Not once, however, can I say that you made any bad decisions. Although the men who lost might take exception to that. All in all, I think you have done a splendid job over these past 17 years. Great going. As to retirement, however, this does not entitle you to go home and hassle your wife. You find yourself a nice little hobby in the garage, rake the leaves, shovel snow, just generally give up making decisions.

I think Steve took this advice, which was pretty good, because he could hardly improve on the work that he had already done, and we can all be thankful for that.

Steve, God bless.

Endnotes

- 1 Act of March 2, 1793, ch. 22, § 4, 1 stat. 334.
- 2 See Joseph F. Spaniol, Jr., *The Federal Magistrate Act: History and Development*, 1974 Ariz. St. L.J., 565-566, 574-578 (1974).
- 3 Christopher E. Smith, *United States Magistrates in the Federal Courts – Subordinate Judges*, 83 (1990).
- 4 *Id.* at 80-81.
- 5 *Id.* at 82-83.

Editor's Note

Former Magistrate Judge Stephen W. Karr passed from this world on September 28, 2007. Judge Karr served with distinction in this position for 16 years until his retirement in 1987. This issue is dedicated to him and to his memory.

The Dad We Knew

*Reflection by Carol J. Karr
at the Memorial Service for the Honorable Stephen W. Karr*

We children were always proud of our father's public persona: his legal career and his military service; but that's not the "Dad" we really knew. Granted, it was kind of cool as a kid to have a magistrate as a father (although we didn't really know what he did), and when Dad went on active duty every summer and we spent our summer vacations on army bases, it was neat to see people salute him. And I admit that his professional life did seep into his personal life. At age 88, he was still reading legal advance sheets. He kept his finances organized on long, yellow legal pads, and his meticulous home filing system would have made Rose and Linda, his long-time secretaries, proud. But the perfectionism that probably made him an excellent jurist sometimes drove us crazy at home. When we were kids, I swear he followed us around the house with a vacuum cleaner, turning off lights as he went.

And this man who was the commander of an espionage camp during World War II was also the only man I know who loved to shop. And I don't mean Home Depot kind of shopping. I mean shopping for clothes with his wife, daughters, daughter-in-law, and granddaughters. I swear Dad was more comfortable in department stores with his womenfolk than he ever was in the jungles of Ceylon. And everyone in our family knew that if you needed some obscure product, all you had to do was mention it and Dad was on it. He researched it like a lawyer, executed his mission with military precision and, if it was a gift, did it with the stealth of a spy camp commander.

And this successful lawyer was also a consummate bargain shopper. He would drive miles for a good deal. He once showed up on my brother's doorstep with a gift of a box of Qtips. Why? Because Meijer was having a two-for-one sale! He was indeed Meijer's best customer, sharing in the philosophy of "Why pay more?" I even remember Dad writing to Mr. Fred Meijer on occa-

sion to inform him that some product he regularly used actually cost a few pennies more at Meijer.

Some of our fondest memories are Saturday morning errands with Dad. He sometimes woke us up singing silly songs, and we always started at the crack of dawn with a stop at Meijer, of course, for freshly baked donuts, a tradition he carried on for years with his grandchildren. In later years, when donuts were no longer a permitted part of his diet, he still made a daily trip to the Beltline Meijer store, where he religiously did his two-mile exercise walk around the perimeter of the store. Frankly, we debated about whether it might be appropriate to spread some of Dad's ashes down those hallowed aisles where he spent so much time.

And although Dad was proud to wear the judicial robe, he never forgot where he came from. He was an immigrant from Greece at a very young age and the only member of his family to go to college, someone whose life was changed by a scholarship to the University of Michigan. Although I am sure he was proud of his award for service to the legal profession, we kids weren't even aware of that until after his death. What we did know was that he kept on the wall of his home office a letter from a prisoner thanking Dad for the respect and dignity Dad gave him in the courtroom even though he ruled against him.

And although Dad served and loved his country, he valued free speech and was proud and supportive of his youngest daughter during her college protest days. He supported all people in their struggles and taught his children to be tolerant and open-minded. Perhaps that is what made him a good judge; it certainly made him a good father.

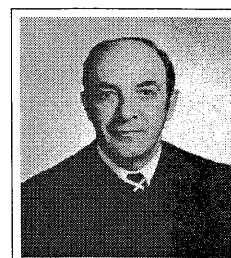
And this esteemed member of the federal bar never took himself too seriously. In the hospital during his last week when the nurses would ask him what he would



like to be called, I never once heard him say “Your Honor,” or “Judge Karr,” or even “Mr. Karr,” although I did once hear him ask to be called “your royal highness.” Dad had a wonderful sense of humor. Although he didn’t like cocktail parties and small talk, he loved to tease. And although he was cursed with the inability to remember names (something he unfortunately passed on to some of us), he always made people feel like he cared, because he did. I think Dad spent his whole life caring about other people.

Dad may have been a colonel in his military life, but he was not a man who was afraid to shed a tear. He was very tenderhearted and demonstrative with his affection. Much of his love he showered on his seven grandchildren, always greeting them with a bear hug, even as his grandsons grew to dwarf him. Dad may have been at the top of his law school class, but he maintained that all of his grandchildren were smarter than he was. He may not have been able to hear, but he attended endless music concerts and every sporting event imaginable, from preschool soccer to Big Ten water polo. He shopped for little girl dresses and college textbooks. In his 80s, he was still chauffeuring grandkids to orthodontist appointments, sneaking in a stop for a sweet on the way back to school. Indeed, he always had a treat for his grandchildren, and they all know that Grandpa had a special sweet spot in his heart for each one of them.

Dad did not limit his love to his family. He was a true romantic, and, as all you ladies know, he was an incurable flirt. He loved pretty girls of all ages and was a master at collecting hugs and kisses. Just ask his



Stephen William Karr
June 20, 1919 - September 28, 2007

Judge Stephen W. Karr, died on September 28, 2007. He was born on the Island of Samos, Greece on June 20, 1919, and emigrated to the United States with his parents, William and Angeline Karr, at the age of 13 months. He graduated from the University of Michigan Literary College and the University of Michigan Law School. Judge Karr practiced law in Grand Rapids for 24 years until his appointment as a United States Magistrate Judge in the federal court in Grand Rapids. He served as a Magistrate Judge for 16 years until his retirement in 1987.

Judge Karr served in World War II as a Major in the India-Burma Theater where he was assigned to the OSS (Office of Strategic Services) as the commanding officer of an OSS operational camp training native agents in espionage, intelligence, and guerilla warfare missions. In 1949, he was awarded the Santimala (Peace) Medal by the King of Siam (Thailand) for his service.

Following his army discharge, Judge Karr served as a reserve officer in the Judge Advocate General's Corps where he attained the rank of Colonel as a Military Judge. In 1972, he was awarded an Army Commendation Medal for meritorious service as a General Court Martial Military Judge in the United State Army Judiciary. In 1987, Judge Karr was given the Service to the Profession Award by the Western Michigan Chapter of the Federal Bar Association for his service in the improvement of the administration of justice in the federal courts.

Judge Karr is survived by his wife of 57 years, Bette L. Karr; his children, Carol J. Karr (Kevin Briggs), Stephen D. Karr (Melanie), Alan W. Karr (Deborah Greiner), and Catherine J. Karr (Steven DeBroux); his grandchildren, Adam Briggs, Benjamin Briggs, William Briggs, Alex Briggs, Angela Karr, Zoe DeBroux, and Thea DeBroux; and his sister, Ann Cardy (Frank), brother, James Karr (Judy) and sister-in-law, Alice Karr.

grandsons’ girlfriends or the nurses at the hospital. In thinking about what Dad would want for a memorial service, we joked about setting up a kissing booth with his photo so he could collect one last kiss from all the ladies in his life.

But Dad saved his true love for our mother, whom he recently referred to as “my girlfriend of 57 years.” Legend has it that he proposed to her while doing a handstand. Even after all those years, they still held hands in public. Mom and Dad are both bright first-borns with strong opinions. As kids, we remember many heated discussions, even arguments, about everything, including religion, politics, and U-M versus Michigan State. But we never doubted their love for each other. And when Dad retired at age 68, they had 20 years of being “joined at the hip.” And in the last few years, when I think Dad realized he might not be alive

but for our mother's devotion to every detail of his health, the Greek patriarch mellowed and they became even more lovey-dovey. They continually told each other how much they loved and appreciated each other and they relished each day as another gift. And, in the end, it wasn't until Mom bent close to say her goodbyes that Dad finally let go.

We are grateful for the long and full life Dad had; we just weren't ready to say goodbye. How do you say farewell to someone who has taken care of you your whole life and who is still so much a part of who you are? Dad had recovered so well from surgery that we didn't expect the sudden turn for the worse. But, in the end, I think the heart that gave so much, for so many years, to so many people, finally just gave out. And although we were not prepared, Dad was never unprepared. The morning after his death, we found a folder on the top of his desk which contained everything we would need to make final arrangements, organized in the meticulous manner of Judge Karr. He had even written his own obituary, chronologically laying out his amazing accomplishments which he rarely shared during his life, and some of which we did not even know about. So, in the end, Dad did what he always did. He took care of his family. It was his final gift to us. I truly believe that Dad spent his entire life willingly using up that heart of his for all of us and so, in the end, he seemed peaceful, because to him it was simply "mission accomplished." And that's the Dad we knew. Thank you, Dad.



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