



Supreme Court of Illinois

February 27, 2024

FORMER ILLINOIS SUPREME COURT CHIEF JUSTICE BENJAMIN K. MILLER PASSES AWAY AT AGE 87

The first Illinois capital city native to serve on the Supreme Court, the Honorable Benjamin K. Miller passed away on Sunday, Feb. 25 at Memorial Hospital in Springfield. He was 87. Justice Miller served on the Supreme Court from 1984-2001 and was Chief Justice from 1991-1993.

A visitation will be held on Saturday, March 23, from 1-2:45 p.m. with a funeral to follow at 3 p.m. Services will be held at Butler Funeral Home, 900 S. Sixth Street in Springfield.

“Justice Miller will forever be known as a giant of the Illinois judicial and legal communities,” Chief Justice Mary Jane Theis said. “He provided steady leadership and moved the courts forward in a profound way. He was always looking to the future and for ways to improve the court system. This is perfectly exemplified by his creation of both the Special Commission on the Administration of Justice and Illinois Family Violence Coordinating Council.”

Justice Miller was born in Springfield on November 5, 1936, the son of optometrist Clifford C. and Mary Margaret Lutyens Miller. After graduation from Springfield High School in 1954 and Southern Illinois University Carbondale in 1958, Miller received his law degree in 1961 from Vanderbilt University. Graduating from the U.S. Army Intelligence School in Maryland in 1962, he served in the Army Reserves from 1961 to 1964, then in the Navy Reserves from 1964 to 1967. Having established a law practice in Springfield that focused primarily on civil litigation, Miller also became active in community organizations. He served terms as president of the Greater Springfield Chamber of Commerce and the Springfield Mental Health Association and became a board member of ARC and the Springfield-Sangamon County Youth Service Bureau.

In 1976, the Illinois Supreme Court appointed Miller to be a judge of the Seventh Judicial Circuit, and he won election to the position in 1978. He served as presiding judge in the Sangamon County Circuit Court Criminal Felony Division from 1976 to 1980. In 1979, he garnered notice for judicial efficiency and fairness when assigned to the largest civilian death penalty case in the nation’s history: the Cook County prison-riot trials of 17 Pontiac Correctional Center inmates. He presided over nearly two years of pretrial hearings and jury selection for the case against 10 of the defendants, who were accused of mob action and murder for causing the riot and slaying three guards and critically injuring two others. After the defendants won acquittal in that 11-week trial, prosecutors dropped charges against the remaining men.

In 1981, Miller became Chief Judge of the Seventh Circuit and served in that capacity for a year, when he won election to the Fourth District Appellate Court, a 30-county area in central Illinois. In addition to judicial duties, Miller maintained an active membership in the Illinois State Bar Association, serving as treasurer from 1975 to 1976. He was also a member of the Sangamon

County and American Bar associations and became the first male member of the Central Illinois Women's Bar Association. He helped establish a Springfield center for battered women, providing legal advice to domestic-abuse victims. He developed the medical-legal curriculum at Southern Illinois University School of Medicine, where he served for several years as an adjunct professor in the Department of Medical Humanities.

In 1984, the Republican Miller decided to seek the Illinois Supreme Court seat vacated by retired Justice Robert C. Underwood. Miller defeated fellow Appellate Court Justice Frederick Green of Urbana in the primary election, then waged a hard-fought campaign against Springfield Democrat James C. Craven, an attorney and former Appellate judge. Defeating Craven by more than 118,000 votes to serve the remaining six years of Underwood's term, Miller became the youngest Supreme Court justice by more than a decade. In 1990, he would win retention with nearly 79 percent of the vote.

In the 1987 case of *People v. Wilson*, Miller delivered the opinion that reversed and remanded a murder conviction and death penalty sentence. After the Cook County trial judge denied Andrew Wilson's motion to suppress his confession as involuntary in the slaying of two Chicago police officers, the jury found him guilty of the crimes. In the appeal, Wilson maintained that he had been "punched, kicked, smothered with a plastic bag, electrically shocked, and forced against a hot radiator" by police interrogators. "The use of a defendant's coerced confession as substantive evidence of his guilt is never harmless error," Miller wrote in citing Chicago police brutality, "and the cause must therefore be remanded for a new trial." At the second trial, the jury convicted Wilson without the confession and imposed a life sentence.

In 1989, Miller wrote the majority opinion affirming the Rock Island County Circuit Court conviction of Leslie Foggy for aggravated criminal sexual assault and unlawful restraint. After an unsuccessful appeal to the Third District Appellate Court challenging the constitutionality of the state's "statutory privilege for communications made to rape crisis counselors," Foggy's attorneys presented his case to the Supreme Court. They cited other cases in which courts refused to recognize or enforce the "absolute" confidentiality privilege of counseling sessions. The Illinois Coalition Against Sexual Assault filed an amicus curiae brief in support of the statutory provision. "The defendant here has offered no reason to believe that the victim's counseling records would provide a source of impeaching material unavailable from other sources," Miller wrote. "We conclude that the defendant was not denied due process, nor was his confrontation right violated, by the trial judge's refusal in this case to conduct an in camera inspection of the victim's counseling records."

From 1988 to 1991, Miller chaired the Illinois Courts Commission, which is the constitutional body authorized to discipline or suspend members of the judiciary. In 1991, he received the Honorary Doctor of Law Degree from John Marshall Law School in Chicago, now UIC School of Law. In 1991, soon after assuming a three-year term as Chief Justice, Miller began working closely with former Supreme Court Justice Joseph Cunningham, newly appointed director of the Administrative Office of the Illinois Courts, to improve efficiency within the state's judicial system. "I'd like to see us look to the future rather than just react to problems as they arise," Miller explained. "Then we can try to make sure we're in a position to meet those needs as we work toward those goals."

Miller established the Special Commission on the Administration of Justice to examine the governance of Illinois courts, including the juvenile system. Also as Chief Justice, Miller

convened the Illinois Family Violence Coordinating Council to improve court response regarding domestic abuse cases, and he began the practice of appearing personally before the Illinois General Assembly appropriations committees to present the judicial branch budget, a tradition that current chief justices maintain. “He has a real love of the Court, a love of the system, and a love of the institution,” assessed fellow Justice Charles E. Freeman, who preceded Miller in death in 2020. “The Court has always been something he has wanted to protect and keep in high esteem. That has always been very important to him, and it is a lesson and a goal that he has handed down to all of us.”

In 1997, Miller moved briefly to the other side of the bench, serving jury duty in a Springfield personal injury civil trial. “It wasn’t so much the case, but the process that was so interesting to me,” he told reporters after the automobile-accident trial. “It reaffirmed my belief in the jury system—that 12 people would leave their jobs and resolve a dispute like that in a sincere and serious manner.”

Chief Justice Miller delivered the majority opinion in the 2000 *American National Bank & Trust Company v. The City of Chicago*. That decision allowed American National, administrator of the estate of Renee Kazmierowski, to bring an action alleging that municipal paramedics failed to properly respond to her emergency assistance call after an asthma attack. American National alleged that when the paramedics heard no response to a knock on her apartment door they did not attempt to enter the unlocked apartment, and the woman died. “Locating a person in need of emergency medical treatment is the first step in providing life support services. Not even that first step was taken here,” Miller wrote in affirming the Cook County Circuit Court judgment.

In 2001, 64-year-old Justice Miller decided to retire from the Supreme Court. “President Kennedy once remarked that change is the law of life, and those who look only to the past or present are certain to miss the future,” Miller said in announcing his retirement. “Now it is time to move on to new adventures in the law and other areas that have long held an interest for me.” During his 17-year tenure, Miller participated in more than 2,000 cases and wrote nearly 500 opinions.

In retirement, the bachelor Miller sailed his 37-foot boat “Adventure” on lengthy trips through the Caribbean and down to South America, and traveled in Europe and South Africa. “I thought at some point I would like to get involved again” in the law, he explained in 2003, deciding to become of counsel to Jenner & Block in Chicago. “Law has been my life and my big interest.”

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