

JUDGE PROCTER HUG, JR.: JURIST, MENTOR, AND STELLAR HUMAN BEING

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I had the exceedingly good fortune to clerk for United States Court of Appeals Judge Procter Hug, Jr. for nearly two years, providing me with a great opportunity to rub elbows with this splendid jurist and man.

Judge Hug, or “Proc” as family members and close friends call him, was everything that a clerk, secretary, advocate, or fellow judge could hope for in a boss, mentor, adjudicator, or colleague. Always our cheerful leader, at any moment during the day he might become our teacher, mentor, confidante, friend, or even father figure.

Judge Hug was not an ideologue, not one to use individual disputes to advance an agenda – unless that agenda was one for fairness within the accepted legal framework – always with an eye to sound policy and common sense. He took every case seriously, insisting on fairness in process and result, determined to “get it right” in the outcome of each case and in the development of the enduring legal principles that necessarily arose out of many of the cases before him. In doing so, he decided each case with a view toward the decision’s effect on future disputes, while taking care not to decide other cases prematurely with overly broad dicta or gratuitous pronouncements.

Consistent with Judge Learned Hand’s faith that “[t]he spirit of Liberty is the spirit which is not too sure that it is right,”¹ Judge Hug possessed a sufficient sense of security, and such a lack of egocentrism, that he recognized the possibility that his initial instincts on a case might be wrong. He kept an open mind until he had carefully weighed all of the arguments and debated the philosophical values underlying the arguments with his clerks.

In one case, for example, Judge Hug had thoroughly analyzed an appeal: he had studied the briefs, sat for oral argument, discussed the appeal with fellow panel members, and drafted a tentative opinion. But he wanted to be certain that he wasn’t missing some argument that the advocates had neglected to develop, to be certain that he and his colleagues had not failed to see this case through a legitimate lens or perspective other than that which came to them naturally.

Accordingly, he assigned to me the task of writing a memorandum arguing that his tentative decision was wrong and explaining why the appeal should be decided for the other party. He suspected, correctly, that my perspective on the problem was different from his own, suggesting that he wanted to be challenged by one who might sincerely believe in a contrary result. I did my best to marshal law, facts, policy, and reasoning that would shake his faith in his decision, but in doing so I grew to appreciate the difficulty of deciding this case.

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¹ LEARNED HAND, *THE SPIRIT OF LIBERTY* 190 (1960).

Judge Hug read my memorandum, told me that he was “damned pleased” to have heard my arguments, but concluded that my memorandum had not dissuaded him from his original opinion. As difficult as the decision was, he was more confident now about the outcome, knowing that he had considered and reconsidered opposing arguments from several sources and perspectives. And the process left me more confident, not only about the court’s decision, but about this jurist’s sense of fairness and his sense that every dispute merited his full consideration.

Advocates must have breathed a sigh of relief when they learned that Judge Hug would be presiding as chief judge of the panel before which they would argue. His demeanor on the bench is much the same as in chambers, precisely because his demeanor is genuine rather than the stuffy or uncomfortable performance of one seeking to underscore his position of authority. Indeed, his warm smile and easy but incisive manner on the bench reflect a style that I espouse as an ideal for law school teaching and moot court competitions. Judge Hug seeks not to intimidate but to put advocates at ease, so that judge and advocate can enjoy a searching intellectual exchange on the issues.

Shortly after meeting with Judge Hug, my father told me that he thought the judge would be an excellent nominee for the United States Supreme Court. My father has never offered an opinion on nominees to the high court on any other occasion. What moved him to give Judge Hug such high praise after a brief meeting? I suspect that he immediately sensed Judge Hug’s genuineness, wisdom, and compassion – fine judicial attributes that merge with personal qualities for which he is well known and loved.

These personal qualities include Judge Hug’s unparalleled warmth as a friend, mentor, and human being. No one meets Judge Hug without being charmed by his ready smile, his sincerity, his complete lack of arrogance, and his genuine interest in others. Of all the counsel that I received at his elbow, I value most our conversations about life, happiness, and personal fulfillment. Somewhat hesitant to make personal commitments at the time, he saw better than I that my sweetheart and I were destined to nurture a life-long love and that my announced desire to avoid parenthood was completely contrary to my character. He gently encouraged me to marry and have children by helping me to recognize my good fortune in meeting the love of my life and by describing the joy that he had experienced as a father and in seeing the world anew through his children’s eyes. More than twenty years later, Debbie and I, classmates at law school, celebrated our twentieth wedding anniversary this summer, along with our two growing boys. It is a tribute to Proc’s warmth as a friend and mentor that we can thank him, not just for his jurisprudential teachings, but for caring about us as friends and, in some sense, as part of his extended family.
