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Salone reflects on his judicial career path

Colleagues say justice showed respect when disagreements came up

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The day after he retired from the 1st District Appellate Court, Marcus R. Salone experienced what made his career so worthwhile.

As he waited at a stoplight at the corner of 83rd Street and Stony Island Avenue, a young man drove next to him in an SUV and began to blare his car horn.

At first, Salone ignored him. But as the honking continued, Salone finally looked over.

"Judge Salone!" the man called out. "You changed my life!"

Such moments happen periodically, said Salone, who ended his 20-month term as an appellate justice on Nov. 30. He also served 20 years as a Cook County associate judge, mostly in the Criminal Division.

"It's gratifying. It's heart-warming," Salone said. "I've had people who I've sent to the penitentiary say, 'Man, if you hadn't done that, I'd be dead now.' ... You get letters, phone calls, chance encounters on the street."

Though his role as an appellate justice involved less contact with defendants than as an associate judge, Salone said he still found the work gratifying.

He remembered advice he once received from the late R. Eugene Pincham, a former 1st District appellate justice and attorney.

"He was very fond of saying, 'Today's dissent is tomorrow's majority,'" Salone said. "That made an impression on me. He was saying, 'If you believe it, and you can justify it in law, then stand your ground.'"

When Salone disagreed with his fellow justices, he remained unafraid to say so, said Justice John Owen Steele.

"He had a way of disagreeing with you that was very respectful," Steele said.

Salone would argue his point, support it with case law, and "it would always make you go back and take a second look at your position," Steele said.

Appellate Justice David P. Sterba agreed.

"We didn't always agree on cases but it was never quarrelsome," he said. "Rather, it was an honest, intellectual difference of opinion."

Salone grew up in the K-Town neighborhood near Cullerton Street and Kostner Avenue, the youngest of seven children.

He graduated from Augustana College in Rock Island and served in the Vietnam War. He then worked as a Chicago police officer for 10 years, and during that time, he attended The John Marshall Law School at night. He graduated in 1981.

Nine days before Salone's retirement, he wrote a strongly-worded specially-concurring



Marcus R. Salone

opinion in a case involving the Chicago Police Department's use of investigative alerts. The alerts notify officers of certain people the department is seeking and establishes probable cause for officers to arrest them.

"The police process is something that I'm familiar with," Salone said. "The notion that the police department can essentially issue its own arrest warrants is mystifying to me."

In the case, *People v. Kraig Hyland*, the appeals panel ruled that Chicago police did not possess probable cause to arrest Hyland when they relied on an investigative alert. The appeals panel reversed Hyland's conviction on two weapons charges.

In his opinion, Salone referred to the alerts as an "impermissible, warrantless arrest of a suspect."

"The goal of an investigative alert, detaining an individual for questioning, is essentially the same as that of an arrest warrant, without the constitutional safeguards," Salone wrote.

In an interview, Salone said, "That practice cannot stand the light of day. It has to be stopped, in my opinion."

Salone's background proved especially helpful in the criminal cases that came before the appellate court, or about half the case load, Steele said.

"He offered so much insight to the panel," Steele said. "He was able to take these cases and lay them out very well for all of us."

As a trial judge in the Criminal Division, Salone said he came to believe that first-time, nonviolent felony offenders need an option to keep the felony conviction off their record. In the 1990s, this belief did not receive great support, he said.

"He was a little bit ahead of his time," said Walter Hehner, who tried cases in front of Salone as an assistant state's attorney.

Hehner, now chief deputy state's attorney, helped draft State's Attorney Anita M. Alvarez's deferred prosecution program last year and sought Salone's input on it.

If his life played out differently, Salone said he could have become the defendant in need of a second chance.

"I try not to be hypocritical," he said. "I see those kids and think, 'That could have been me.' It's the luck of God."