

attaining success for herself and her own family alone. She vowed to change the system so that others, perhaps less determined than she or endowed with fewer intellectual gifts, not only could follow in her path, but could find their own, quite different paths. She wanted not just to set an example, but to enable others actually to benefit from what she had achieved, in whatever way they chose. By succeeding in that effort, Judge Ginsburg has become much more than a one-dimensional prototype for professional women. She has helped to engineer changes in our society that enable all individuals to look beyond static social expectations and to fulfill their goals and ideals on their own terms. It is this compassionate commitment to equality without stereotypes that characterizes Judge Ginsburg as a jurist and as a person.

I look forward with confidence and hope to Judge Ginsburg's accession to the Supreme Court. If she is confirmed, I know that she will serve as a thoughtful and caring custodian of what is best in our society for all our children. Thank you.

[The prepared statement of Ms. Roberts follows:]

PREPARED STATEMENT OF EDITH LAMPSON ROBERTS¹

Mr. Chairman, and members of the Committee, it is an honor for me to be here today to speak in support of the nomination of Judge Ruth Bader Ginsburg to the Supreme Court of the United States. I have had the privilege of knowing Judge Ginsburg in a variety of contexts. She has been my employer, when I served as her law clerk from 1989 to 1990, my mentor, discussing career choices with me after my clerkship ended, my friend, holding a surprise wedding shower for me at her apartment, and the officiator at my marriage to another of her clerks, my husband Matt.

In all these roles, Judge Ginsburg's influence and example have been an inspiration. As her law clerk, I was granted a close-up view of the way in which Judge Ginsburg approaches her work on the bench. Her thorough knowledge of the letter of the law is matched only by her deep respect for its spirit. Even in the D.C. Circuit, with its high proportion of administrative law cases that some might characterize as abstruse and unexciting, Judge Ginsburg comes to each case with fresh enthusiasm, interest, and a commitment to reaching the result the law requires. This commitment manifests itself in her extraordinarily thorough and careful work habits. Long after her clerks have departed each night, and despite persistent phone calls from a husband requesting her presence at the dinner table, Judge Ginsburg stays in her chambers reading the briefs and pondering the arguments in every case. The precision of the reasoning by which she arrives at a decision is reflected in the conciseness and clarity of her opinions, written and edited with an exact sense of when something is "just right."

This is not the deliberation of an ivory tower perfectionist. Judge Ginsburg's devotion to reaching the right conclusion, and to explaining it in the clearest possible manner, stems from her keen awareness of the importance of the judge's role in our society. Every day, judges make decisions that have real-world effects on individuals and groups. Such decisions cannot be made casually, but require careful and thorough consideration. Judge Ginsburg's sensitivity to those real-world effects has led her to take her law clerks on a tour of Lorton Reformatory on several occasions in order to see a side of the criminal justice system that cannot be conveyed in legal citations or through oral argument.

The precision that marks Judge Ginsburg's approach to judging also reflects her appreciation of the delicate balance by which order is maintained in our system of government. Preserving that balance—between the various branches of government as well as within the judiciary itself, between trial and appellate courts—demands a delicate touch. Judge Ginsburg's command of that touch motivates one of the conventions of her opinion-writing. Unlike many appellate court judges, Judge Ginsburg scrupulously avoids referring to the authors of decisions under review in the D.C. Circuit as "the lower court" or "the court below." Referring to the "trial court"

¹Edith Lampson Roberts worked as a law clerk to Judge Ruth Bader Ginsburg from 1989 to 1990. She is now a staff attorney at the Environmental Law Institute.

or the "district court" instead, she instructed us early in our clerkship, conveys appropriate respect for the crucial role played by the judiciary's front line.

All these hallmarks of Judge Ginsburg's style as a lawyer and a jurist—her conscientiousness, her capacious memory for prior cases and precedents, her ability to cut to the quick of a case and identify the pivotal issues—began to influence my own approach to the work of a lawyer during my clerkship. Judge Ginsburg taught me not only how to reason through a case, and to convey the result clearly and concisely, but also how to do so without being divisive or harsh. Her example demonstrated that persuasion, the lawyer's hallmark, does not need to be shrill or strident. Calm assurance can win the day as effectively, and perhaps more enduringly, than grandstanding.

These lessons learned during my clerkship shaped my own approach to the practice of law. But it was not until the clerkship had ended, and I entered the professional world, got married, and began to contemplate raising a family, that I recognized the true force of Judge Ginsburg's example. Her ability to attain the summit of professional accomplishments, while still raising a family and building a rich and fruitful marriage, make her a prime role model for a young woman lawyer—or, for that matter, for a young male lawyer—seeking to reconcile the conflicting demands of career and family.

Judge Ginsburg is much more than a role model for professional women. A role model often leads only by example, and remains removed from those who seek to emulate her. One as accomplished and as disciplined as Judge Ginsburg might easily have climbed as high as she has, and then have remained content merely to inspire others by her stature. But Judge Ginsburg was not satisfied with attaining success for herself and her own family alone. She vowed to change the system so that others, perhaps less determined or endowed with fewer intellectual gifts, not only could follow in her path, but could find their own, quite different paths. She wanted not just to set an example, but to enable others actually to benefit from what she had achieved, in whatever way they chose. By succeeding in that effort, Judge Ginsburg has become much more than a one-dimensional prototype for professional women. She has helped to engineer changes in our society that enable all individuals to look beyond static social expectations and to fulfill their goals and ideals on their own terms. It is this compassionate commitment to equality without stereotypes that characterizes Judge Ginsburg as a jurist and as a person.

I look forward with confidence and hope to Judge Ginsburg's accession to the Supreme Court. If she is confirmed, I know that she will serve as a thoughtful and caring custodian of what is best in our society for the benefit of all our children. Thank you.

BRIEF BIOGRAPHY OF EDITH LAMPSON ROBERTS

Edith Lampson Roberts received her law degree in 1989 from Harvard Law School, where she was an editor of the Harvard Law Review. From 1989 to 1990, she worked as a law clerk to Judge Ruth Bader Ginsburg on the U.S. Court of Appeals for the District of Columbia Circuit. After her clerkship, she practiced law for two years as a litigation associate at the Washington, D.C. law firm of Miller, Cassidy, Larroca & Lewin. She is now a staff attorney at the Environmental Law Institute, a non-partisan, non-profit center for research and education in the field of environmental law.

The CHAIRMAN. Well done.
Ms. Peratis.

STATEMENT OF KATHLEEN PERATIS

Ms. PERATIS. I would like to begin by differing with what some of the earlier speakers have said. I don't think that Ruth Bader Ginsburg should be thought of as someone who has been chosen just because she is the best and her sex, her gender, is irrelevant. I think it is very relevant. I think it is crucial. I think that having another woman in the Supreme Court is central to the importance of what is going on today. I think we had a graphic example yesterday of how crucial it is that there is an African-American in Congress. I think that Senator Moseley-Braun's race is not irrelevant, and I think that Judge Ginsburg's sex is not irrelevant.

I have worked with Judge Ginsburg, or I did work with her through most of the seventies. I met her in 1973, and she hired me a few months later to succeed her at the ACLU. So I had the great privilege of watching this grand strategy unfold and working at her side and at her feet for a good part of it.

She was not only all the wonderful things that you have heard, creating this entire area of gender discrimination law under the Constitution, but she shaped a whole generation of women lawyers. There were dozens and dozens and scores of women who worked with her, and worked with her very closely, and were infected by her vision of social justice.

What we have seen in the last week is a very careful judge who takes her responsibilities seriously, who knows the law in its breadth and depth as well as anybody in the country, and perhaps more than most. But what we saw at the ACLU was a grand strategy for revolutionizing the constitutional law of this country.

I think that she has a broad vision of social justice. She has a broad and expansive notion of using the law as a tool of achieving social justice.

When she was at the ACLU and when she was teaching at Columbia and running the ACLU Women's Rights Project, her vision of social justice was instructive to all of us. People were amazed at how accessible Judge Ginsburg was during those years. She was always reachable by women lawyers who were trying to figure out what we ought to do next, and she not only chose her own cases with care, but she had a broad range of control over all the sex discrimination litigation that took place in the seventies. She stopped cases that should have been stopped. She encouraged cases that should have been encouraged. And she counseled us on which case was which. And we took her instruction very seriously, and when we failed to follow her advice and pursued a case that she counseled against, we usually lost because she knew, as she knows as a judge, that you have to take one step at a time and not ask judges to go too far too fast. Because if you do, you may lose what you might have won.

I think that her litigation strategy as an advocate will be reflected in her vision as a Justice on the Supreme Court. I think she has a vision, and I think that her constraint as an appellate judge is an indication of how she follows the rules. As a litigator, she followed the rules by never citing a case for something it didn't stand for, by being extremely careful, and by being reliable. And she has been careful and reliable as a court of appeals judge.

Her nomination to the Supreme Court I think fulfills her destiny. I have believed, since 1974 at least, that she would end up on the Supreme Court. I think there is a whole generation of women who are now, as I am, women of a certain age who were young lawyers in the early seventies, who believed that she would end up on the Supreme Court. She has said that she didn't think about it. We thought about it. We believed it.

My first daughter was born in 1977, and I named her after Ruth Ginsburg. I told her, my daughter, that she was named after the woman who would be the first woman on the U.S. Supreme Court. When Sandra Day O'Connor was appointed in 1981—

The CHAIRMAN. She thought her name was Sandra?

Ms. PERATIS. My daughter said, "Mom, what's the deal here? You told me that Ruth was first on the Supreme Court." I had to give her a little political lecture.

But the fact that Ruth has now been nominated and apparently will be confirmed is a fulfilling of her destiny and the fulfillment of a dream of a whole generation of women lawyers for whom her gender is not irrelevant. Her gender is central and crucial, and we are all proud. We are proud, and as you can see in a lot of respects, Ruth is humble. She has done her work carefully and with dedication for many years, and I think that will continue. And as a Supreme Court Justice, I believe she will walk humbly and do justice for the rest of her life.

Thank you.

[The prepared statement of Ms. Peratis follows:]

PREPARED STATEMENT OF KATHLEEN PERATIS

I am Kathleen Peratis. I am a lawyer in private practice in New York City. I am here as a friend and colleague of Ruth Bader Ginsburg. I am also here as a representative of the thousands of women lawyers, judges and law students and women who aspire to be lawyers, judges and law students who Ruth has inspired and for whom she has served as a role model over the last 25 years.

I met Ruth in 1973 at a national conference of feminist lawyers held in New York City. There were, at that time, no more than several dozen of us in the whole country. I had graduated from law school four years earlier, and in my class of about 150, there had been 6 women.

Although our numbers were few, and although our task, justice for women, was monumental, we knew that our time was nearly come. We knew this for a number of reasons, but chief among them was that we were led by Ruth Bader Ginsburg.

In 1971, Ruth had won a case in the United States Supreme Court, *Reed v. Reed*, in which for the first time in our history, a discriminatory gender classification was declared unconstitutional. When that happened, we had been heartened, inspired and suddenly overcome with the notion that justice was possible.

And so, when I actually met Ruth in 1973, it was like meeting Joan of Arc. She offered me a job a few months later, to succeed her at the ACLU when she became a full time law professor at Columbia Law School. Thus began five of the most exciting and professionally rewarding years of my life. Although she was full time at Columbia, she was also full time at the ACLU. I watched her, the foremost women's rights lawyer in the country, implement her constitutional strategy for undoing 200 years (or more, depending upon your perspective), of entrenched gender discrimination. She did it case by case, and she won every one—except the one she knew should never have gone to the Supreme Court in the first place, but was unable to stop. More of that in a moment.

Ruth's overarching principle was equality. Her fundamental commitment was to the proposition that gender classification, even those that purported to be benign, always hurt women and usually hurt men. Her faith was abiding that men were by and large people of good will, and that if the harmfulness of gender classification were rationally and carefully explained to them, they would understand and respond by working with us to undo the injustice, piece by piece.

Her litigation strategy called for identifying gender classifications that embodied stereotypical notions of women which were harmful both to the non-stereotypical woman and also to her spouse. That is the common denominator of *Frontiero*, *Weisenfeld*, *Struck*, *Moritz* and a host of others. *Kahn*, the only one she lost, does not fit that pattern, and she knew it. She never wanted that case to go to the Supreme Court, and tried very hard, albeit unsuccessfully, to stop it. She thought it was a loser, and she was right. It seemed to benefit certain women and hurt none. The invidiousness was too subtle and the Court didn't understand.

As her strategy was unfolding, Ruth became a mentor and a role model for a whole generation of feminist lawyers who, like me, are now women of a certain age. She not only inspired us with her success, she was present on a day to day basis to help us. People were always amazed at how easy it was to get in touch with Ruth. She was almost always by the phone either at Columbia or at home, and she always had time to talk about a problem or issue, to review a brief, and make comments and suggestions, or to meet with groups of women to discuss policy or strategy. She was always very clear that our work had to advance us toward one goal—