

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—

equality. Thus, any argument or strategy that required an assumption that women were better than men, or that implied that mere equality was not enough, provoked a steely stare. She would then remind us that the gender classification we endorse today will be precedent for the gender classification that puts us or keeps us in our place tomorrow. Today's pedestal is tomorrow's cage.

Her litigation strategy in the '70's turned out to be a good fit for her later judicial philosophy of the '80's. She insisted then that we attempt to develop the law one step at a time. Present the Court with the next logical step, she urged us, and then the next and then the next. Don't ask them to go too far too fast, or you'll lose what you might have won. She often said "It's not time for that case." We usually followed her advice and when we didn't, we invariably lost.

It's no wonder my colleagues and I, Ruth's acolytes by the score, assumed from quite early on, certainly by the mid 1970's, that Ruth would be the first woman on the Supreme Court. When my first daughter was born in 1977, and I named her after Ruth, I told my daughter that her namesake would be the first woman on the Supreme Court. When Justice O'Connor was appointed, in 1981, I had some explaining to do.

Ruth has not only been role model and colleague, she has been a friend. She has shared my joys with me and allowed me to share some of hers with her. She is generous with her time and affection, and devoted to her family and friends. She is accessible, patient and almost wholly without what is negatively described as ego. She is, in short, at least off the bench, thoroughly non-judgmental.

As I know her, Ruth is an overpowering intellect and a dear and compassionate friend. Because of these qualities of mind and spirit, my belief is that as a Supreme Court Justice, she will, as she has for her entire professional life, walk humbly and pursue justice.

The CHAIRMAN. Thank you very much. Well said.

Senator HATCH. Thank you very much for appearing.

The CHAIRMAN. Senator Feinstein, do you have any questions?

Senator FEINSTEIN. I have no question.

You are free to go. Thank you very much.

Senator HATCH. Senator Cohen?

The CHAIRMAN. I beg your pardon. I'm sorry. Senator Cohen?

Senator COHEN. No questions.

The CHAIRMAN. Thank you all very much.

Now we will go back to our fourth panel. Our next panel is comprised of representatives of a number of groups wishing to testify in opposition to the nomination of Judge Ginsburg.

The first is Paige Comstock Cunningham, who is president of the Americans United for Life, in Chicago, IL. Next is Rosa Cumare, a partner in the firm of Hamilton & Cumare, Pasadena, CA. We also have with us Nellie Gray, who is the president of the March for Life Education and Defense Fund, and has been a welcome testifier at a number of hearings. This is not her first time to testify at this and other hearings, and we welcome her.

Susan Hirschmann, executive director of the Eagle Forum, in Washington, DC. Also on this panel is Kay Coles James, vice president of the Family Research Council, but I understand she is in the hearing in the Labor Committee at this time. And last, but certainly not least, is Howard Phillips, chairman of the Conservative Caucus, who is testifying on behalf of the U.S. Taxpayers Party, is that correct, Howard?

Mr. PHILLIPS. On behalf of both organizations.

The CHAIRMAN. On behalf of both organizations.

I welcome you all, and I would invite your testimony in the order in which you have been recognized.

Ms. Cunningham, welcome.