

Albany City Court Judge Helena Heath (10-27-2016)

Dolores Bolden: What made you decide to pursue a legal career?

Judge Heath: I have a long commitment to being a lawyer, which stemmed from a second grade experience where a teacher asked me to stop sticking up for a kid who she was yelling at. She asked to see me after class because I had stood up and said, "Mrs. Lerman, Johnny wasn't talking." When I went to see her after class she said to me, "Helena, when I need a lawyer I'll call the Legal Aid Society."

Obviously I got thinking: "I wonder what a lawyer must do that allows me to stand up when I think something is wrong?" That was part of the reason. Certainly the influence of my parents and the type of community that I grew up in where they were very active in community service. We always believed in making sure you have a voice in things that were not being done properly in your community. I always had that type of family.

Dolores Bolden:

Thank you. It appears your career has been entirely in the public sector. Were there any gender or diversity issues that led you in that direction rather than toward the private sector?

Judge Heath:

In terms of my decision to focus my career in law on the public service, certainly there was an interest in making a difference in my community. I was very motivated by issues of racial and social justice. For me, it seemed like the natural fit to be involved with anything having to do with policy and the practice of law that would help the underserved or underrepresented. In that situation, being in government for almost thirty years now, close to thirty years in the different branches of government, I do think it's a tremendous privilege and you can have a tremendous impact by being an attorney who serves the public in the public sector of our profession.

Dolores Bolden:

Thank you. When you were admitted in the late 1980s, what was the environment like for black female attorneys in the Capital Region?

Judge Heath:

When I went to NYU Law School, the whole focus of that school, and certainly why I was attracted to it, was very strong in public service. There were public service law programs, including a scholarship that I received in my second and third years of law school based on my commitment to pursuing a career in public service.

I got a chance to go into the field and actually work in different public sector agencies, including the Vera Institute of Justice and the Legal Aid Society. It was very, very important to me to get real life work experiences when I was a law student. I was active in the Black Law Students Association at NYU. We went out and we were mentors to kids who were involved with the juvenile justice system, and there was a program offered which allowed us to serve as mentors.

I think the representation of people of color at NYU Law School probably for the 1980s was fairly good. The point is that when you get to law school and you're aware of what the problems are in society and you want to make a difference, you get involved in the law school environment and with perhaps organizations like the Women's Law Caucus, organizations like the Black Law Students Association, where you can focus your efforts and make an impact.

Dolores Bolden: Thank you. Did you encounter any gender or diversity issues in any of your prior jobs, with the Court of Appeals, for example, the Attorney General's Office, the Executive Department, the Legislature?

Judge Heath:

Being a lawyer coming out of NYU Law School and going to the Court of Appeals as my first job was an amazing experience because we saw for the first time a woman on the bench, Judith Kaye, who was an associate judge at the time, the first female judge to ever serve on the Court. I was very aware of the fact that there needed to be more women in the profession, for sure. I was also fortunate to see Judge Fritz Alexander on the bench at the Court of Appeals at the time when I clerked there. He was only the second man of color, African American male, to serve in that position.

It was a wonderful experience to feel like I could do anything I wanted to do in the profession. When I went to the Attorney General's Office, and thinking about the issue of gender impact, I just recall that there wasn't an overwhelming amount of female lawyers in the Capital Region at the time. There are more now. There are more women judges than there have ever been before.

There were reactions to coming into the courtroom. You were noticeably among a few people, lawyers of color, a very, very limited number. While I recognized that to be the case or the situation, it seemed to me that as long as I kept doing the best job, performing in a very competent and professional way, I never experienced blatant negative reactions to me because of being a female. I have had a lot of reactions, both positive and

some negative, to becoming the first woman of color to sit in the Albany City Court.

Judge Heath: My experience in being the first woman of color to serve on the Albany City Court bench has been very positive overall. There are some negative situations that have arisen. I do know that there is often a reaction to someone who looks different from someone who was expected to be the judge, and that person who is different than expected is not always greeted with open arms and welcomeness. I think more to the point is what does it mean to the system of justice for me to be in this position. I do take my role very seriously and really to heart in terms of my affect on people's lives and how my decisions affect people's lives.

Being the face of justice, as I would call it, I think it's so important to make that difference where the litigants come before the court and they're not all of one gender, they're not all of one type of race or ethnicity or age, so for them to see decision-makers who represent the diversity of who we are as a society is very impactful in a very positive way. Every time that I think I've gotten challenged or questioned as to whether I'll be as competent as any other person serving in the role of judge, my response is simply my performance as a judge, the competency I bring to the bench, the way that I do my job, and the way that I know that people react positively when they have a fair decision-maker, because that's what it comes down to, being fair and understanding different people's experiences as a decision-maker is very important.

Dolores Bolden: Excellent. Who are your models?

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My parents were my initial role models, most impactful. They were community leaders and they got involved as PTA presidents. The building that I grew up in was a co-op, cooperative residence, and my mother, at age 88, just finished a term of presidency after two terms of being president of the co-op board. She gets involved and she makes sure that the quality of life in the building and for the residents, the shareholders as they are called, is a good quality of life. We are a family that believes in standing up for what is right... If you see something is wrong and it needs to be corrected, you stand up and you say something. You complain when there's something to complain about, and you take action. Being compassionate and understanding people's walks of life I think is very important.

The role models who I had, in addition to my parents, who really showed me those types of traits in terms of what a judge can do and how important it is to not only be competent in the area of law that you're dealing with, but in terms of your temperament, in terms of your mannerism, in terms of the integrity you have and the fairness and respect with which you treat people, began with Judge Judith Kaye and continued with Judge Anthony Cardona. Judge Leslie Stein in subsequent years, since I knew her from the Women's Bar Association, and she has always been a judicial role model for me as well.

Dolores Bolden:

Thank you. What did the appointment of Judith Kaye as Chief Judge and Karen Peters as Presiding Justice mean to you as a woman attorney?

Judge Heath:

I had a wonderful experience of being hired by the Court of Appeals to be what's called a "central staff attorney," so being a law clerk for all the judges of the Court and then getting to observe arguments in the courtroom and walking in and seeing Judge Kaye on the bench when I was a young attorney right out of law school, seeing her there, was a magnificent way of showing me that I could do anything I wanted to do in this profession. This experience planted a seed of possibility with me and all of the young attorneys clerking at the Court, and planting seeds of possibility is what I in turn do present day for others who are coming up behind me. It's very positive and impactful experience, it can give you a whole sense that you do belong in this position.

Judge Kaye was outstanding in terms of her legal skills, her temperament, and the passion she had for justice in our society. Judge Karen Peters likewise has that type of passion and commitment to ensuring that our justice system is fair and responsive to people's needs. She is clearly a trailblazer herself in being the first female to serve on the Supreme Court in the Third Judicial Department and then going on to serve as the first woman to be Presiding Justice in the Third Department. I had the pleasure of working with her during her year of campaigning for the Supreme Court judgeship position, and her present position of being our PJ for our Department is incredibly impactful. Again, she's a human being who cares about other people and believes very deeply in the aspects of diversity and the benefits to having a more diverse society, profession, and judiciary.

Dolores Bolden:

Thank you. You were the first Albany City Court female judge of color?

Judge Heath:

Correct. Yes.

Dolores Bolden:

How did you position yourself to get a shot at that appointment?

Judge Heath:

Becoming a judge was not something that I thought about initially when I started my career. Being a young person, since second grade, wanting to be a lawyer, that was something that I thought about. It was not until I was practicing before Judge Beverly Tobin, Albany County Family Court Judge, now retired, when I was in the position of being able to do some law guardian work, so I was in an appointed law guardian position while I was working at the Assembly.

When I was practicing before Judge Tobin during the year she was retiring from the bench, a fellow attorney asked me, "Did you ever consider being a judge?" I said, "No, never." He said to me very matter of fact, "Helena, no one is going to come up to you and tap you on your shoulder and say, 'We want you to be judge.' You have to look into it. You have to make your interest known. There are certain things you do to get out there and see if there will be some support for that idea."

Pursuing it that way, then understanding a little bit more about the political system ... I had the benefit of serving as a Democratic Committee person, which was a position that I served in for almost five years, which got me into the community ringing bells, asking people to sign petitions for other candidates. I worked on a few judicial races, including Judge Stein's race, including Judge Peters' race, so I got exposure that way to understanding a little bit more about elective politics.

Becoming an appointed judge is another path, different from elective, but it comes down to similar steps you have to take. In pursuing an appointment, you have to get the support of the appointing authority, who is the Mayor when it comes to City Court Judges. Gender played a role in thinking about what my timing was. There were five judges on the City Court bench, and the person who was coming off the bench was a male. Since there were no females on the bench when the vacancy arose, I think the Mayor thought about the issue of having a more gender-diverse bench, so that became a positive factor for me, to be able to present yourself as a female with a certain number of years of legal experience and qualities for him to consider appointing me as a City Court Judge.

Then when you're appointed as a judge, it's a foundation piece for running for election. You're already in the position of judgeship, and then when you ring the bells you're asking people to not only sign your name on the petition to get on the ballot, you're asking people to keep you in the position you're already in, and unless there's some compelling reason for

them to throw you off the bench, so to speak, that's why this is often a very positive position to be in to have been appointed first prior to seeking election to that office.

Dolores Bolden: Thank you. Okay. How has the increased presence of women impacted the legal profession and the judiciary?

Judge Heath: The increased number of women and people of color on the bench is a tremendous benefit. There's a perception that people have that our justice system will be more fair when our decision-makers represent the full spectrum of people in our society. There is the message that the more women who are in these positions means that women are clearly showing that they can perform this job and excel in this role, that the idea of a man being the only gender that can handle being a judge, that stereotype, that notion can be dispelled.

To see more women in this position also allows younger women and women lawyers to pursue that path with a sense of confidence that this can be something that they can achieve.

John Caher:

You mentioned the perception and symbolism and all of that, but is it more than that? Does it affect the jurisprudence? Is there a different perspective that ought to be on the bench, or is it merely a matter of gender or ethnic pride, if you know what I'm getting at?

Judge Heath: In addition to the importance of the perception of fairness, when you have decision-makers who have different life experiences and they bring those life experiences to the table, we make decisions as judges every day where we have to think is something logical? If I were responsible for childcare, would I be late for court if some situation arose and I had nobody else to handle the child? Perhaps a woman experiences that situation more often than a man and has to deal with what happens when childcare plans fall through.

Are there other areas of life where, based on the different life experiences you bring to the table, you would bring important considerations to the table which would inform your decision and make it a stronger one? Yes, it's more than just the sense of perception of fairness. It's substantive justice as well. It's substantive aspects of what diverse people bring to the decision making process.

Dolores Bolden: What changes have you observed in the way women attorneys are treated in court?

Judge Heath: When I was a young female attorney coming up about twenty-nine years ago, one of the things I noticed about being a female attorney was the sense that you had to make sure in terms of your dress and perhaps the way you presented yourself, that you were more focused on looking like a male or fitting in with men. I would not say this was an overwhelming experience or an experience that affected me to the same degree that it may have affected others. I know there came a point though when I started thinking these rigid shoulder pads are not working for me, I think I'm going to have to loosen up this attire a little bit and maybe I'm going to wear suit colors other than gray and black. Certainly, there was a breaking-in period for my generation of women becoming attorneys, and I had to be conscientious of saying I am prepared to be who I am as myself, not trying to pattern myself after the male attorney.

There are some differences now with respect to a female's role when she walks into a courtroom or when she perhaps meets with a client in conference. The concern is still is she going to be as good as a male? That is certainly something that is always there I think, and realistically may be something that one should just be aware of, not overwhelmed by, but just aware of.

From my involvements with bar associations and having meetings with one of the committees I chair called the Diversity and Gender Fairness Committee for the Capital District Women's Bar Association, unfortunately it is reported that younger female attorneys may still face experiences that older female attorneys have faced in the past, such as being complimented on what they look like as the first comment made by someone in court, or being referred to as "honey" or some other word that just from the tone of the comment can often make you feel that you're not being responded to as a professional who brings legal knowledge and skills and everything else to the table like any other attorney, but that your gender or your appearance is what's being focused upon. That still is a problem. That's still a concern.

Dolores Bolden:

Are there any aspects of how women are treated in the legal profession or the judiciary that you feel still need improvement?

Judge Heath:

In terms of areas of improvement that are needed to either raise awareness as to gender issues and sensitivities, I think the discussions that I have seen take place in bar associations and community forums, they need to continue. When people experience certain situations involving gender or race for example, it's still very difficult to often know what is the best response. Is it something that you can and should let roll off your shoulders, so to speak? Is it rising to a level of sexual harassment or racial discrimination? Is it just an inappropriate comment? Is it just something that someone is a little out of touch with as far as the way they should address a female, let's say, or a person of color who comes before a judge or has a case with opposing counsel?

I think that we must make sure that these issues are talked about and that the learning continues, and this will go a long way in resolving some of these problems.

Dolores Bolden:

Thank you. In your time on the bench, are you seeing more women and more minorities appearing in your court as counsel?

Judge Heath:

In my twenty-nine years of being both a practicing lawyer in the Capital District area, as well as now a judge for more than an eleven-year period, I have seen more women become judges, which has been great, including myself; I am one of the people who broke a barrier in ascending to the bench as the first woman of color to serve as an Albany City Court Judge. There have been more attorneys who have been involved in different ways in leadership roles, in bar association roles, which always helps, whether it be the New York State Bar having female presidents ... in fact, we're in the midst of two female presidents back-to-back, the president-elect and the current president are females, and that might be the first time, if not only the second, that that has happened.

There's some progress I've seen in terms of the reaction of people seeing women in leadership positions has been very positive. However, through the work that I do with other bar leaders in this area, including my co-judge Rachel Kretser, I have seen through the statistics and the studies that the Third Department is still lagging behind the other Departments with respect to the numbers of women on the bench and the numbers of

people of color on the bench. There's clearly more work that needs to be done.

Dolores Bolden: Thank you. As you well know, until this year there had never been a person of color elected to the Supreme Court in the twenty-eight county region that encompasses the Third Department. Would you care to speculate on why that is?

Judge Heath: While recognizing that there has been some progress in terms of the numbers of women and people of color coming onto the bench, we have to take a look at what needs to be done to increase these numbers. That obviously does require understanding what some of the past issues have been. With respect to what I have seen in being part of the political process to be elected judge and what I saw when I was a Democratic committee person...when women were not serving in this position in large numbers...there is still a system in place that unfortunately too often chooses, selects, identifies people who are more like one type of group than the diversity of people who we have in the community.

If there's a history where the political party is predominantly white males, perhaps even males of a certain ethnicity, it may be very hard to break down any existing barriers to access by others as a result of that history. There's generations of people that have been in leadership positions as council people or ward leaders, as we call them in the City of Albany, in terms of political leaders.

The leaders have to have a willingness in essence to open the door to other people who meet the qualifications that are needed to become a judge, for example, and ensure that they will be looked at and considered in the same way as everybody else who comes to the table. Then I think it has to go further. It has to be that not only do we acknowledge that there is a person prepared to do the job who may be a female, may be a person of color, but that there are benefits to making sure that we have a diversity of people in all positions.

Having people in leadership positions as chairs of political parties who have this type of commitment, who say it'll make sense, there'll be a better judiciary with a diversity of decision-makers, who consider whether diverse candidates may be more electable because, for example, there are women who vote in strong numbers and often with an eye towards electing a woman who they view as being competent to do the job particularly if there's a lack of gender diversity in certain positions.

People who vote may very well see increasing diversity as a benefit. So it's a combination of ensuring that political leaders are committed to these same goals, and practically speaking when there is a field of men running for a position that has only been filled by men in the past, for example, it may be effective to urge that increased gender diversity is needed, and make the argument that, "Hey, have you considered that we should identify a candidate who is qualified for the job and who as a woman will diversify that particular office?" That's a benefit that hopefully a decision maker will accept as being important.

Dolores Bolden: Thank you. Going forward, what is the significance of this Christina Ryba's election last year as the first person of color to be elected to the Supreme Court in this region?

Judge Heath:

The work that has to be done to increase diversity continues. There is the information that I am aware of that the numbers of women and people of color in the Third Judicial Department is lacking behind the three other Departments in our State. To have a first person of color, first woman, in a position helps break down a barrier. Then, the hope of course is that once that door is open others will follow, or that that person who is the first does the job competently and brings forth all the benefits that are hoped for; and that will again, I think, allow for the decisions to be made that diverse people should be placed in that position, identified as candidates, elected to those positions, appointed to those positions.

We just did have in our Third Judicial Department the first African American female to become a Supreme Court Justice. That barrier is now broken, with more opportunities that are needed to be extended to people who come after her. As I have seen in my experience as a judge, the more that people get to see that a female can be as strong a judge as a male or that a person of color can be as strong a judge as a Caucasian person or a person of European descent, than stereotypes will be dispelled.

That's what needs to happen, and substantively that's what needs to be demonstrated. This will absolutely create a wonderful opportunity to ensure that this society is a fair society because we have a diversity of decision-makers as judges who are rendering fair and impartial decisions, and it's very important that we have that goal met.

Dolores Bolden: Do you have any tips for young women considering a career in the law or hoping to become a judge?

Judge Heath: I appreciate being able to share my thoughts on what it might take, what are the keys to success, for a woman seeking to be a lawyer or a judge. It is first looking at whether as a young high school student perhaps, like I had the opportunity to do, is there an opportunity to serve as an intern within the legal profession. Serve as an intern with a lawyer, intern with a judge, and find out if it's a professional path that really makes sense for the person. Is it a good fit? Meet people who are in the profession. Speak to them about their experiences professionally and personally dealing with the challenges of work/life balance and the professional challenges that they may face.

By meeting people who are in the field, you often have the opportunity to be seen in a good light. Relying on people who you meet ... I was able to meet and personally intern with, as a high school student, a lawyer. He wrote a letter of recommendation for me later on when I was going into law school. There's references you can get that help you then in later steps along the way of accomplishing certain career goals.

Also, specifically when it comes to becoming a judge, while it might sound like a good thing to do or something that someone thinks they are interested in, it takes a real soul-searching about whether this is something you really want to do from beginning to end. In the jurisdictions that I'm in, you have to run for office and be elected. There is campaigning, there's ringing doorbells, there's getting involved and putting yourself out there in literature and being able to speak to people and say, "Hey, look at all the great things that I can bring to the table." It's not an easy thing to do for most people.

It's only when you have the support of people around you who can help you learn the ropes will you be able to be successful because for everyone who's doing this for the first time, it's difficult. What I've found is you have to have a good group of people who you can turn to and get support from. It is not just setting a goal that I want to be a judge, but understanding what will it take, what does it mean, and allowing yourself to ask the hard question: Is this really going to be the right fit for me?