

WHAT I SAW AT THE DAYTONA 500

NICOLE STELLE GARNETT

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I had the incredible good fortune of serving as Justice Clarence Thomas's law clerk during the Supreme Court's October 1998 term. It was the most formative year of my life. My memories of the year—a year of learning lessons about life and the law, personal integrity and fortitude, formula racing and recreational vehicles (seriously)—remain a vivid mosaic seared forever in my heart and mind. I could not possibly do them justice in a short essay, so I offer instead a reflection on four memories here. These memories are icons of the wisdom and goodness that the Justice shared with my co-clerks and me during the one amazing, unforgettable year that we spent learning from Justice Thomas. I have previously reflected on Justice Thomas as a jurist,¹ but this tribute to him on the anniversary of his service on the Supreme Court reflects on him as a person.

The first icon comes from my second week on the job. On Tuesday, July 28, 1998, Justice Thomas delivered the keynote address at the National Bar Association's annual convention. The National Bar Association was established in 1924 as the "Negro Bar Association" because black attorneys, at the time, were routinely denied admission to the American Bar Association. The National Bar Association, which today has a membership of over 65,000, remains an important professional organization for many Black lawyers. In 1998, just seven years after he was confirmed, Justice Thomas was—to put it mildly—a controversial figure, particularly among black lawyers. To be sure, he remains so in some circles, but the level of animosity and degree of controversy has faded (thankfully) over his thirty years of service on the Court. Early on, the very fact that he was invited to speak frequently generated bitter rancor. The National Bar Association's invitation was, sadly, no exception. The organization had invited, disinvited, and reinvited him to deliver the address in the months leading up to the event. And a prominent federal judge active in the organization was threatening to lead a walk out/counter-event if the Justice accepted the re-invitation, which is exactly what he courageously and magnanimously chose to do.

On the day of the speech, I had met Justice Thomas in person only twice. The first time was during my interview in chambers; the second time was at his 50th Birthday party, hosted by a former law clerk soon after I was hired.² Although I barely knew him, I suspected that delivering his speech in the midst of controversy and under threats of protests could not be easy. Justice Thomas had recently returned to the Catholic faith of his childhood, and I was a recent Catholic convert. Perhaps emboldened by the zeal of the converted, I emailed him say that I would pray a Rosary for him before his talk. For those unfamiliar with the details, this Catholic devotion centers around meditation on "mysteries," or moments in the life of Jesus. There are

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¹ William S. Consovoy & Nicole Stelle Garnett, *"To Help, Not To Hurt": Justice Thomas's Equality Canon*, 127 Yale L.J. Forum 221 (2017); Nicole Stelle Garnett, *"But for the Grace of God There Go I: Justice Thomas and the Little Guy*, 4 N.Y.U. J.L. & Liberty 626 (2009).

² I am now the same age as Justice Thomas was when I clerked for him, which I am sure makes us both feel old.

four sets of mysteries, each assigned a day of the week—“joyful,” “sorrowful,” “glorious,” and “luminous”. The sorrowful mysteries are prayed on Tuesdays. I will never forget his response: “Thank you. I am going to pray a rosary too. But not the sorrowful mysteries, even if it is a Tuesday. Today, I need joy.”

His talk was more than a mere success. It was a triumph. The counter protest fell flat, he was warmly welcomed, and his speech received a standing ovation. I believe the speech remains one of his finest hours. The speech is packed with wisdom and courage, and I regularly share it with students who ask me about Justice Thomas. But the most important lesson that I learned from that day came not from his words to the National Bar Association but his courage in the face of controversy and his response to the vitriol, a response captured in his email reply to me: Reject anger, embrace joy. Be principled and courageous. But always be a happy warrior.

The second icon is my walks with the Justice to daily mass at St. Joseph Catholic Church on Capitol Hill. Morning mass with the Justice is something that I will always treasure. I am sure that the priest’s homilies imparted important wisdom, but the wisdom that I remember from those mornings came from our short walks to and from the Court to the church. After mass each day, the Justice waited outside on the steps for his “ladies,” as he referred to the two older women (one white, one black) who would regale him with various stories and memories of childhood. (I remember a particularly animated one involving roller skating on the lot where the Supreme Court now sits.) No matter how busy his day ahead, he waited—not because he had the time to spare, but because he knew that it mattered to them.³ I recently asked the Justice if he remembered them, and he said, “Oh yes, Geraldine. She died, you know. The other was Ilsa. She always accompanied her mother. I miss those chats.” Those chats, I believe, capture something important about Justice Thomas—something that we all left chambers understanding more deeply: There is never anyone more important than the person in front of you.

Geraldine and Ilsa were not the only beneficiaries of this lesson. One day, he stopped to talk to a Capitol Police officer standing in front of the Hart Senate Office Building. He addressed him by his first name and asked about his son. As we walked away, I asked how he knew the man. He replied that he’d gotten to know him when he worked for Senator Danforth, *twenty years before*, and that the officer was very proud of his son who was in the seminary. I marveled that he could remember his name, let alone those details, after twenty years. Another day, a man who appeared to be homeless walked up to say something like “Justice Thomas, I’m sending you another petition!” The security detail accompanying us tried to turn the man away, but the Justice waved them off and talked to the man for a few minutes. As we returned to the Court, he remarked, “You know, these are hard days for him. It was recently the anniversary of his mother’s death.” I was stunned: In a city full of people who spend every conversation looking over each other’s shoulder to see if someone more important is in the room, Justice Thomas stopped to be kind to a homeless man who was mourning the loss of his mother. Nobody was ever more important than the person in front of him.

³ When I finished my clerkship, I was seven months pregnant with our oldest child, Maggie. They gave me an illustrated book of the Saints for her. It was clear to me that finding the particular book that recalled their childhoods had taken some effort. I treasure it to this day.

The third icon is Justice Thomas at the 1999 Daytona 500. Justice Thomas is a huge NASCAR fan, and NASCAR got wind of this fact and invited him to serve as the Grand Marshal of the Daytona 500. My husband and I had the good fortune to accompany him to the event. In addition to the opportunity to take “hot laps” around the track the day before the race, we also spent the morning of the race with Justice and Mrs. Thomas as they toured the speedway grounds. Justice Thomas was completely immersed in the activity—crawling under car to look at the “restrictor plates” (whatever they are) and peppering the drivers with questions about their pit crews. It was something out of a scene from the movie “Cars” that featured a Supreme Court justice wearing a leather jacket with the Daytona logo and racing stripes plastered on it. (That jacket was something to behold.) And then came the moment that everyone was waiting for—the most famous words in racing—Clarence Thomas, the Grand Marshal of the Daytona 500, in his deep booming voice, proclaimed to the cheering crowds, “GENTLEMEN, *START YOUR ENGINES!*” (Afterward, a woman came up to him and said, “Judge, you did a real good job.”) When he returned to the Court the following week, the Justice wore his leather Daytona 500 jacket to Conference and reported, with great amusement, that his colleagues did not fully appreciate it.

At the Daytona 500, Justice Thomas was a man of the people, a man with *his people*. He was the same man who welcomed the janitorial staff into his chambers to needle them after his NFL team (the Cowboys) defeated theirs (the Redskins). (We couldn’t hear the conversation, but the laughter boomed throughout the office.) At the Daytona 500, he was the same man who parks his RV overnight in Walmart parking lots so he can interact with “real Americans.” He was the man who, choking back tears upon his nomination to the Supreme Court, thanked his grandparents who raised him and the nuns who taught him in Savannah’s segregated Catholic schools. The man who told the nation that day that “only in America could this have been possible:” only in America could a man raised in poverty in the segregated south rise to serve on the United States Supreme Court. And he was the man who never has never forgotten from whence he came—and reminded us, in word and deed—never to forget get it either, no matter how fortunate we might be.

The final icon is a conversation that my co-clerks and I had with Justice Thomas toward the end of our time with him that year. We were sitting in his chambers after the term had wrapped up, the opinions were finalized and decisions announced, talking about the year. And he brought up to his decision to join one of the Court’s more than twenty unanimous opinions in that term. The case concerned an esoteric issue—hardly anything hot button or, in our minds, consequential (although he would certainly remind us that all cases are consequential to the parties). He told us that he had set a bad example for us in that case. “I didn’t agree with that opinion,” he remarked. “I should have dissented.” And then he told us that, in life, not to emulate his decision to join the unanimous decision in that inconsequential case. “Don’t ever go along with something you think is wrong just because it is easy.” Of the hundreds of hours we spent talking about cases that year, that conversation—about a case whose name I cannot remember—sticks with me most vividly for the lesson that he feared that he had failed to teach us. In matters large and small, do what is right, not what is easy or popular.

These four icons, and four lessons, remain with me: be courageous but joyful, even in the face of hostility and adversity; treat the person in front of you as the most important person in the world; never forget from whence you came; and never, ever, go along to get along.

In an important sense, these lessons are also captured in Justice Thomas's closing words to the National Bar Association in 1998:

I have come here today not in anger or to anger, though my mere presence has been sufficient, obviously, to anger some. Nor have I come to defend my views, but rather to assert my right to think for myself, to refuse to have my ideas assigned to me as though I was an intellectual slave because I'm black. I come to state that I'm a man, free to think for myself and do as I please. I've come to assert that I am a judge and I will not be consigned the unquestioned opinions of others.

But even more than that, I have come to say that isn't it time to move on? Isn't it time to realize that being angry with me solves no problems? ... Isn't it time that we respect ourselves and each other as we have demanded respect from others? Isn't it time to ignore those whose sole occupation is sowing seeds of discord and animus? That is self-hatred. Isn't it time to continue diligently to search for lasting solutions? I believe that the time has come today. God bless each of you, and may God keep you.⁴

And may God bless and keep Justice Clarence Thomas, a man whose goodness matches his greatness. The greatest man I have ever known.

⁴ Clarence Thomas, Speech to the National Bar Association (July 28, 1998) (transcript available at (1998) Clarence Thomas, "Speech to the National Bar Association", BLACKPAST (Jan. 20, 2017), <https://www.blackpast.org/african-american-history/1998-clarence-thomas-speech-national-bar-association/> [<https://perma.cc/YBD5-MFGK>]).