

2010 Annual Illinois Judicial Conference
Thursday, October 21, 2010
10:45 a.m.
Hyatt Regency Chicago
Chicago, Illinois
Honorable Thomas R. Fitzgerald, Chief Justice

Good morning, welcome to the 57th Annual Illinois Judicial Conference. On behalf of my colleagues, I thank you.

A few introductions before we begin. Generally when people are making introductions, they tell you don't applaud until the other 150 people are introduced.

For the Supreme Court Justices, I would think we could give them a special applause. With that then, let me first of all acknowledge my dear friend and former colleague, Justice Philip Rarick. And there are two justices from Chicago, Cook County, the Senior Judge in our court, Justice Charles Freeman, and we are also joined by Justice Anne Burke, who is no longer going to be the youngest judge on the bench. The youngest in appearance, almost. Rita Garman just ties her just perfectly. Justice Bob Thomas can't be with us today, but I ask that we acknowledge him anyway. And the same is true of our next Justice, Tom Kilbride, who will be our next Chief Justice, if we could acknowledge him as well. From the Fourth District, another applause is to Justice Garman, and finally, Justice Lloyd Karmeier.

Let me recognize the members of the Executive Committee as well as the chairs and members of the other various committees. If you would rise now, we'd acknowledge, that may be everybody in the room, that's fine. So if we could have the Executive Committee, the chairs and the members of the committees stand up.

Traditionally at this gathering of our state judges, the Chief Justice of the Supreme Court addresses the Conference to highlight the annual reports from the committees. But if it's all right with you, in light of my status as a soon-to-be former chief justice, I would like to talk a little bit about something more personal. And if I have your permission, I would like to give you a short recess of my career, a short review of my career. I'd like a recess from it too as well.

My purpose is to establish the fact that I have been so fortunate to be in this job and not that I did it somewhat better than anybody, because I didn't. With apologies to Lou Gehrig and without the echo, a short review. For the past two months you have been reading that I received a bad break, yet today I consider myself the luckiest man in the State of Illinois. What establishes that is the fact that I've been so fortunate in the positions that I've held over the past 30 years or so, and I would like to talk to you about them a little bit. It's my experiences as a lawyer and a judge in the state that have been so rewarding, and left me with a lifetime's worth of fond memories.

I began my career in the office of Cook County State's Attorney. It was located then in a building on the point corner of Roosevelt Road and Western Avenue. It was a building that might have been built in the 19th century. I don't know that literally to be true, but I think it may have been. But it was my first assignment in the Cook County State's Attorney's Office to that court. The day I was there, this may be urban legend, the day I was there, somebody was pushed down an elevator shaft the first day I was there. I don't know if that's true or not true, but that's what they

said at the time. The thing that was really remarkable about the Cook County State's Attorney's Office at the time that I was in it, was that there was no long wait to try the big case. You got your chance early on and there were some remarkable people that did that, and I would point to one case of some significance and the lawyers on that case. Richard Speck, you will all remember. The prosecutors in that case, the first and second chair, Bill Martin was the first chair and George Murtaugh was the second chair. One of them had three years in the office, one of them had 18 months in the office. They were joined by people who were less senior in the office, but some special learning in the self-defense area. Joel Flaum, a name you may have heard, former Chief Judge of the 7th Circuit, present member of the 7th Circuit Court of Appeals, and Jim ZageI, who has a pretty big trial coming up. All of these people were short in experience, but trying the big case. Indeed, I was elected to the Circuit Court of Cook County in 1976. At the time I was elected, I wasn't the youngest elected ever, I was the youngest at the time and two years later, by the way, I was joined by another pretty good lawyer, Donald O'Connell, who was not senior to me, so there we go.

This particular assignment lasted about ten years. The job had been to do the work of the trial judge, preside over trials, impose sentences and attempt to do the best to be fair to both sides. I assumed that this work in the trial court of the criminal division would be my life, and I was perfectly happy with it. I was delighted with it, as a matter of fact. But random events often produce realities that you do not expect. At this time sitting in my courtroom at 26th and California, I began to hear rumors of a federal investigation. When I heard the rumors myself and was told the names of some of the people involved, I chose to disbelieve it. I just didn't believe it could be so, and yet those rumors were followed by indictments and those indictments were followed by convictions. As it turned out this group of people gave up everything. Everything. Their liberty, their property, their good name, and they did it in some instances for what was the cost of a bar bill.

I suggest that we not bury Greylord, but that we remind people of Greylord. There should be a constant repeated promise to yourself that this will never happen again, and I think it helps if the younger judges actually know a little bit about it. Know that it did in fact happen, and know that it was people that were pretty much like them. The only difference was whether you made the commitment to do the right thing or whether you didn't. So I think that if I leave you with nothing else today, it's a reminder. It's awful, it happened, but it's within the course of our memory and we shouldn't forget it. In that investigation 92 officials were charged, including 17 judges and 48 lawyers. No women. Could it be the same today? We're going to talk just a little bit in that area later on. In the wake of the Greylord investigation and the convictions, I was assigned to be the supervising judge in the traffic court. I knew in some vague way I was supposed to straighten things out up there, kind of the way it came down there. And I made a decision that the way to avoid corruption was to be the lawyers that we were supposed to be, to do things like lawyers and not permit, which is an open invitation for corruption, random dismissals of cases which was going on there.

I can remember the first day that I walked back into traffic court. Remember, I'd been there earlier as an Assistant State's Attorney, but I went up to see what the movie was all about. We later looked to do a treatment-type court for these cases too, and I'll talk a little bit about that in a minute. But the solution to the problem of too many cases was to have a short traffic safety film that was displayed to the defendants, and once they completed watching the movie, they were discharged. In theory, not bad at all. But here's what I saw. I walked up with the deputy sheriff, up into the back of the room that they were showing the movie. Nobody was sitting down. There was a line of people walking through the room and I realized later that these were the people that were being

discharged. Their sentence was to walk through the room that the movie was in while the movie was on, not to sit down and watch the movie, but just to walk through it and dispose of a lot of cases that way. But it wasn't what they were supposed to be doing. The thing that I, and I remember this vividly, I realized that day that there were virtually no assistant corporation counsels assigned to the traffic court. So there was nobody representing the City of Chicago at that time in those courts, and the judge was left to do it on his or her own. His own. I've established that. And it was just a mistake. You cannot change the rules. If the rule is call the case and listen to the evidence and make a decision, it's pretty simple. It doesn't say walk through the room while the movie is on. I called Judson Minor, the corporation counsel, and I told him that if by a certain day, and I picked whatever the day it was, a week to two in the future, there were no assistant corporation counsel and there was a courtroom without an assistant corporation counsel prepared to prosecute the case, we would dismiss the case for want of prosecution. The judges would do that. He was delighted to have an opportunity to come back into the court, and that was one of the first efforts we made in trying to change the culture.

We didn't give up on traffic safety. We went to the Northwestern University Traffic Safety School and had them develop a four-hour program for us that's in some similar manner still there at the traffic court. It's now been online. It's very high tech. But at the time that we did this, it looked more like a court. And I think that what we get, what we offered, the four-hour traffic safety program, was no walk in the park, so to speak.

Since that time tens of thousands of people have been through the traffic safety school. Now, the fact is the traffic safety school actually was about traffic safety and there are, I think, people probably alive who attended this class if they followed the directions. I remember just something I put in my own driving repertoire the school taught, was that if you were faced with a head-on accident you should turn to the right, because the chances are that the car coming towards you would turn to the right as well. It was a serious business. It wasn't just administrative.

The other thing that strikes me about the memorable traffic court event is in order to help change the culture, I was sent the whole class of associate judges at one time. So I had almost 13 associate judges, and they were all here at the same time learning the same thing and treating the cases the same way. They didn't know, for example, that they could get through a call or not get through a call in the time allotted. They just took it on faith that they could, and they went upstairs and they did it.

You know, really nice things happen to you along the way. This group of judges later on told me that they had given a name for themselves. They called themselves Fitz's 13. And they all have had distinguished careers, and I'm very proud of them and honored by their recognition.

After 18 months, I returned to my professional home, 26th and California, to become the presiding judge of the criminal division. This was for us, the center of the criminal law universe. And I remained in that position, at that court in an administrative position for many years, and I think it's roughly broken down into ten-year segments. And this would include the traffic court for a ten-year period.

Another little statement, little story, about the time that we did the narcotics court at 26th and California. That was a treatment-like court, that's what you'd call it today. It was a court that permitted a lesser sentence if you took training. And in order to enhance that training, the experts put together a class for my new 13 judges on addiction. And as I said to my friend John Brady, many of you know John. He was a wonderful man and a dear friend, did something that was pretty

cool. He came away from the first week of training with the doc's about the addiction and what it was and a realization that there were legal drugs that were taken that were still the same type of addiction as the illegal drugs, specifically smoking. John came up to me and he said, "Fitz, I got to quit smoking." I said, "Yes, you should quit smoking, John." He said, "No. No. I'm going to send people to jail because of their adherence to their addiction. I can't send people to jail when I'm doing the same thing they are." And he quit smoking. And I just remember that as just a meaningful, meaningful day.

There are many stories about 26th Street, but that's not what I'm doing today. I've done a brief review. I was honored by the people and that's the truth of the matter. It was the people that were there that made it wonderful. I saw Joe Urso over there. Joe Urso was there. There were just so many wonderful people there. To this day, I think of them with great affection. And then that became my life again and I said, I guess, well, this is it. This will be the high water mark. This will be where I'm going to go. This will be the best I'm going to do.

And then I decided in 2000, actually before 2000, 1999 or something like that, that I would offer my name as a candidate for the Supreme Court. And in a very difficult election, I was successful and won that election and went to the Supreme Court. I'll tell you about the Supreme Court. The first time I went there was with Ben Miller during the summer, after it looked like I was elected and with nobody running against me at that point. There was no one that I had to concern myself with, but I went to the court with Ben Miller, and he invited me to sit in the chief's chair. I said, "I'm not going to do it." He said, "Sure, you will be there someday." I said, "I'm not going to do that." And he finally talked me into doing it and I had chills. That's how I reacted to it. And I looked at the murals and I said to Ben, "We've got to do something about that," and then Anne Burke came along and she's going to do something about it. And as time went by and it became something regular for me to do, walk into the Supreme Court following Charles, I had chills every time I did it.

And lastly, afterwards the people mingled around and congratulated the man who had just been made a judge. And I was talking to Mary Jane, Mary Jane Theis, and somebody came up to me and mentioned that Mary Jane was now going to be going on the Supreme Court. I couldn't help it. I had chills for her.

So when I say to you that I'm the luckiest man in Illinois, I mean it. I've had the opportunity to live a dream. What could ever be better than being a trial court judge? You have to ask yourself that question if you're on a trial court, what's better than this? I get to be a lawyer. I get to make rational decisions over cases, and the king of my own kingdom. And yet it's not the Supreme Court. And I've had the experience given to me by my fellow citizens to serve on that court for ten years. That would be greedy to ask for more. The work of the court has been described by members of the court as 50 percent administrative and 50 percent lawyer. The work of the lawyer, the part of the work that's the lawyer in us, is glorious work. It's where we write and we discuss and we argue and we try to put it through this churn that is called the review of a case and come out with something worthwhile. And we do that in an effort to make it collegial throughout and it's not easy, because you like to defend your own position. But it's to be cherished by those of us, the few of us who, through one way or another end up with the experience.

I personally was honored when the constitution required that I serve by presiding over the Governor Blagojevich impeachment trial. And it was, I don't know how, I want to say fortunate. It's not like I was getting some pleasure out of it, but it was just so interesting to be presiding judge. And I was so proud of the way the Senate conducted themselves during the trial. It became for me

the highlight of the trial. And I think that the trial, the Senate and I, did the best we could with the evidence that was available to us. So it's the impeachment trial that I look to as a highlight maybe, but not alone.

Last week, in a two-year period, a special committee of the court finished work on an evidence code. And that code is now available, or will be more available as it gets to work, as a code of evidence for the State of Illinois that's based upon a codification of common law. And I think of the people who worked on that committee and the wonderful work that they did. I am just so proud to have been part of it. Not just that day, but part of this whole thing, this whole process. I am so proud to be part of this Conference and to be with you as we do what we're doing under the constitution.

To those people who work on the committees, it's extraordinary. We'll listen to it this afternoon, and we'll find as we listen to it that hundreds of hours of work was put into doing this with people who believe deeply that it was the right thing to do. We've talked about Greylord. I'm not going to beat that drum any longer for today, but I think that it might be interesting to look at a couple of heroic stories that had nothing to do with me except that I knew and loved the people involved. And I'm just going to call attention to them because they're both worth knowing about and remembering it now.

Many years ago, a young lawyer named Mary Ann McMorrow was employed by the Cook County State's Attorney's Office. And she was, as things will happen, involved in a case. It was her case, in which the Supreme Court must have granted a PLA because the case was going to the Supreme Court. And Mary Ann went in to discuss with her bosses the strategy that she should use in arguing the case before the Supreme Court. I assume it was a man, said to her, "We don't let women argue cases before the Supreme Court. We leave that for the men." Words to that effect. Every time I tell this story, I wonder how she got through it. Such a bitter thing to have happened to her, but she did precisely the right thing. She went about her business, and she did what came next, and she got elected to the Circuit Court, and then she got elected to the Appellate Court, and then she became a Chief Justice of a court that she was not allowed to argue before.

I think the greatest change as I observe society, and I am no expert, and we have marvelous, incredible things going on with people moving forward with whatever it is, with great achievements that make everybody proud. But I think that the change in the place of women within our society has been the greatest change in my life. We have now almost 300 judges who are women in our state. That's a wow figure. This is in a real short time that that has happened. Well, I have four daughters, so I'm all for it.

Yet to keep it focused, if you like, if you want to do something that's really great, commit yourself to being on the square. Commit yourself to doing what is right, what is honest and what is fair. Convince yourself that if you treat other people with respect, they'll treat you with respect. Recognize what might be going on in front of you. Don't disregard it, but follow the law. You don't get a pass on the law because you give a sad story. You get a pass on the law because the law permits you to do so. But if you just do what you do, if you just love it as much as I do, and I think you do, it's such a wonderful job to have. Why would you ever do anything but commit to do it the way it has to be done, to be noble and good. And that's to do it right.

And with that then, thank you. I've waited and waited a long time to make that speech. God bless you all and good luck in the future. Thank you.