

REMARKS FOR ACCEPTANCE OF THE WILLIAM H. REHNQUIST AWARD HON. KIM BERKELEY CLARK

The William H. Rehnquist Award for Judicial Excellence is one of our nation's highest judicial honors.

Presented annually by the National Center for State Courts, this prestigious award honors a state court judge who demonstrates the outstanding qualities of judicial excellence, including integrity, fairness, open-mindedness, knowledge of the law, professional ethics, creativity, sound judgment, intellectual courage, and decisiveness. The William H. Rehnquist Award honors judges who are taking bold steps to address a variety of issues affecting their communities. Pennsylvania family court Judge Kim Berkeley Clark was named the recipient of this award in 2017 for her creation of a "trauma-informed" courthouse.

Good evening. I feel very honored, privileged and humbled this evening in receiving this most prestigious award. I must say that I have rather been in somewhat of a blur for the past few months since I received a call from my Chief Justice, Tom Saylor, informing me that I was chosen as the recipient of the Rehnquist Award. It was a busy day, and when my tipstaff, Callen Taylor, told me that the Chief was on the telephone, I was mildly annoyed, because it interrupted my work, but also because I thought that the Chief was going to ask me to serve on yet another committee. When he told me the purpose of his call, I was floored! (Almost literally—I had to sit down to keep from falling down!) And since that day, I kept feeling as if I would wake up to discover that this had been a most pleasant dream.

When I reviewed that list of previous recipients, including Judge Judith Kaye for whom I had great admiration, I questioned whether I was worthy of this award. One thing of which I am very sure is that I am not standing here this evening by myself. In other words, I am only here because of the support and teamwork of many others. Those who know me know that my mantra, so to speak is "Collaboration Rocks!" and I believe that it really does.

When I thought about what I wanted to or should say this evening, many thoughts went through my head. But I decided that I would share with you two things—my vision of our court system and the things for which I am most thankful.

Several years ago, my quest to create a trauma-informed court, began with what Oprah would describe as my "aha moment." For you to understand my transformation, I need to give you a little background about where my journey began.

Before taking the bench in 1999, I had been a prosecutor in the District Attorney's Office for nearly 16 years. In that capacity, I tried many serious cases, such as child abuse, sexual assault and homicide. I was known as a formidable prosecutor,



fair, but tough. I had a good relationship with the judges in the criminal division of our court and I thought highly of many of them, particularly the tough, no-nonsense judges. These judges took command over their courtrooms, the proceedings were orderly and formal, they made prompt decisions and no one dared to challenge their authority. They had my utmost respect and, as a result, I sought to emulate what I believed were the best traits in these judges.

So, when I took the bench, I brought with me 16 years of prosecutorial experience in an adversarial system. I sought to have an air of formality in an informal court system and decided that as the judge, it was acceptable to

impart my own values upon the parents and children who appeared before me in dependency and delinquency cases. It was not uncommon for me to "give a little lecture" or in other ways express my disapproval at their choices and their lifestyles. When I think back on some of the things that I said, I am, quite frankly, ashamed.

So, what was my "aha moment"? I will tell you. One day, I was sitting on the bench with a courtroom full of people. As always, the issues presented in juvenile court are weighty. So, as I looked out among the crowd, I realized that I am a public servant, paid by the taxpayers. I realized that the people sitting in my courtroom are the taxpayers, and so technically, I work for them and that I needed to act like I worked for them. And, with that in mind, I decided that I should treat them with the dignity and respect that I would give to any employer and that every human being and child of God deserves.

In order to truly embrace, foster and effectively promote dignity and respect in my courtroom, I needed to become a servant leader.

The phrase "Servant Leadership" was coined by Robert K. Greenleaf in *The Servant as Leader*, an essay that he first published in 1970. In that essay, he said:

“The servant-leader is servant first. . . . It begins with the natural feeling that one wants to serve, to serve *first*. Then conscious choice brings one to aspire to lead. That person is sharply different from one who is *leader* first; perhaps because of the need to assuage an unusual power drive or to acquire material possessions. . . . The leader-first and the servant-first are two extreme types. Between them there are shadings and blends that are part of the infinite variety of human nature.

“The difference manifests itself in the care taken by the servant-first to make sure that other people’s highest priority needs are being served. The best test, and difficult to administer, is: Do those served grow as persons? Do they, *while being served*, become healthier, wiser, freer, more autonomous, more likely themselves to become servants? *And*, what is the effect on the least privileged in society? Will they benefit or at least not be further deprived?”

In order to truly embrace, foster and effectively promote dignity and respect in my courtroom, I had to change or improve my role as a judge. I now understand that I am a public servant, nothing more and nothing less; that the title Judge defines my role in the judicial system, but this title does not change the fact that I am a servant. This realization has made me understand that I can carry out my job of judging without being judgmental.

My courtroom has been transformed from an adversarial, trauma-filled courtroom to a safe, quiet and peaceful place. While I have very good lawyers who practice in my courtroom, it is clear to me, that they are working in a respectful and collaborative way. It is a place where everyone has the right to be heard and to have their positions considered. It is a place of inclusivity, not exclusivity. And, when everyone is included, they feel like they are part of the solution—they own it and it works better.

I am thankful and blessed for the opportunity to serve my community. And the beauty of serving, is that you get so much more in return. Therefore, with Thanksgiving Day upon us, I find myself reflecting on things for which I am most thankful.

I am thankful for a career that is rewarding and fulfilling and for having realized things that my parents and grandparents could have only imagined. Obviously, I am thankful for each day that I open my eyes and live another day with my health and my senses intact. But, as an African-American woman, a lawyer, and a judge, and considering all that has transpired during the past year, I am most thankful that I live in a state and a country where, at least for the time being, judges are independent.

When I think about the events of the past year, including attacks on judges, efforts to strip away judicial independence by attempting to enact laws that would permit legislators and even our president to bypass judicial authority to further their own purposes, I am deeply concerned about the survival of the independent judiciary.

Judicial independence means that decisions of the judiciary should be impartial and not subject to influence from the other branches of government or from private or political interests. Sounds like a great idea, doesn’t it? I think so, but there have recently been efforts to change this doctrine that is rooted in the history of our nation. While right now, the independence of our judiciary seems to be intact, understand that efforts to

chip away at or erode judicial independence are likely to continue. We must therefore educate the public on the importance of the independent judiciary.

Judicial independence is important to me, not only because I am a judge, but also because I am a citizen of the United States, because I am a woman, and because I am a minority. If judges were not free to make decisions without being subjected to outside influences, I might not be sitting as a judge today or standing before you as the recipient of this award. If judges were constantly subjected to outside influence, would we have had a *Brown v. the Board of Education*? Without an independent judiciary, would judges in the South have felt free to uphold the civil rights legislation of the 60s, which sought to create equality in all aspects of life for *all* citizens regardless of color, gender or economic status?

Without judicial independence, would judges feel free to overturn, rule against, or declare unconstitutional laws that would deny entry into the United States to persons of certain religious and ethnic groups? Without judicial independence would we have ever had *Roe v. Wade*, *Loving v. Virginia* or would same sex couples have the constitutional right to marry?

In nearly every case, where a judge has to make a decision, there is a likely to be a winner and a loser. Someone is bound to walk away unhappy. Sometimes neither party is satisfied. That is the nature of an adversarial system. Nevertheless, what is important is the process—that judges make decisions based upon the law and the evidence and that judges only be accountable to the Constitution, to the laws of the land and to the taxpayers that they serve. It is important for all citizens to know and to believe that regardless of their political standing, their political power, their race or ethnicity, their gender or gender identification, their religion, or their economic status, that they have equal access to justice. For the lawyers in the room, this is what you should want for your clients. For the taxpayers in the room, this is what you should want for yourselves, your families, friends and neighbors. This is what I set out to do in every case that is before me. And I want to be able to do it without threat of political backlash or without threats from special interest groups.

For some, judicial independence is synonymous with judicial activism and for others it means that there is no way to hold judges accountable. When a judge is called upon to make a difficult or unpopular decision, that does not mean that the judge is an activist, it simply means that the judge is following the law. Judges are accountable. All decisions made by judges are on the record or put in writing for the world to review and inspect. Most cases are heard in open court, in a public setting. Nearly every decision that trial judges make in a case is subject to appellate review should a party be unhappy with the decision. There are also judicial conduct boards, which investigate complaints made against judges and that take action when appropriate.

When I think about the prospect of something other than an independent judiciary, I shudder. I think about the days during the civil rights era when courageous men and women were subjected to threats, cross burnings, and violence. I think about the judges who have lost their lives, who have been injured, or who have had family members injured or killed

because a party was unhappy with the outcome of a case. If we lose our independent judiciary, I fear that we would also lose the opportunity to attract some of our best legal minds to the bench, for who would want to work in an atmosphere of undue influence and the threat of impeachment or pay reduction?

So, when I give thanks this month and on Thanksgiving Day, I will be sure to give thanks to my family friends and colleagues and all who support me. But, I will also be sure to give

thanks for an independent judiciary. And I hope that I will be as thankful next year on Thanksgiving Day and for years to come. Alexander Hamilton, one of the framers of the United States Constitution, said it best, in *The Federalist* No. 78. "There is no liberty, if the power of judging be not separated from the legislative and executive powers. ... [L]iberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments." Well said, Mr. Hamilton—well said.

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In the fall of each year, the judge receiving this distinguished honor is recognized during an award ceremony held at the U.S. Supreme Court. The award highlights the judge's work to provide model programs for court systems throughout the United States.

Chief Justice of the United States John G. Roberts Jr. will present the award during an evening dinner ceremony on Thursday, November 15, 2018, at the United States Supreme Court.

"His dedication to duty was an inspiration to me, and I know to many others. [Rehnquist] reinforced my view that a certain humility should characterize the judicial role. Judges and justices are servants of the law, not the other way around."

— CHIEF JUSTICE OF THE UNITED STATES JOHN G. ROBERTS JR.

For more information about the nominating process and previous recipients, please visit <http://www.ncsc.org/About-us/Awards/William-H-Rehnquist-Award.aspx>.

For more information about the Rehnquist Award Dinner please call 1-800-616-6110.