

JUDGE Thank you so much for this opportunity to address these wonderful students at this wonderful law school. You really look good. I see you all dressed up. And when I was at Michigan, I was in law school some 40 some years ago, we never dressed up like this even on interviews. But it really is an honor.

And it's very nice to see when I walk in-- that's how old I am, one of your professors here, one of my law clerks, I call him by his first name. I said-- Professor Jaffe is here. 20 years ago, he clerked for me, and it was a great experience. And I see that he's continuing to give back to a great profession that we have in you.

When William Cook, he was a great benefactor of the University of Michigan Law School, and he left a sizable amount of money in the 1920s, unbelievable amount of money. As a matter of fact, our beautiful law school quadrangle is due in large measure to his single donation. But this is what he said just a little squib of his will why he did it.

Michigan was his Alma mater, but it was bigger than that. And what he said, he said something to this party, he said, American institutions are more consequence than is wealth or power. He said, and these institutions, their preservation and that development has largely been because of the legal profession. And they will continue to be so for that preservation.

And he said, because our legal profession are responsible for those institutions, preservation and development, he gave to a law school that would train them, and that's so true. 100 years later, our institutions, American institutions-- and that's why the diversity of those, our profession is so important on many levels of diversity, racial, ethnicity, gender, all types of-- orientation or whatever it might be in terms of the beautiful, wonderful diverse America we have should be represented in this profession.

So I salute you, BLSA. I remember when I was in BLSA at Michigan, we took a trip and our National Convention was in Chicago. And we all loaded up as many people that could legally get into a personal vehicle and went up there, and I was just so inspired by it.

So let me tell you this. You're in law school, and it's rigorous, and it's supposed to be rigorous because you will be handling the institutions and the individuals, and they will come before you whether you're a transactional lawyer or litigator like I was. It's so important. And I don't want you to squander any moment of it, any moment of it.

I'm a very modest person, but if you allow me one little bit of immodesty, which is rare for me, is that one of the awards that you said I have and it's a list of them, but this weekend I just got back from New Orleans. No, it wasn't just because it's Mardi Gras season I was in New Orleans. Of course, that was nice time for having too. But I received the American Bar Association. One of their highest awards is the Spirit of Excellence Award on Saturday. And that was just so moving and talk about your contributions to diversity in our profession. And for the bar to honor me that way, I consider to be a great and high honor.

I've been toiling in this profession for 45 years, one I have treasured and one that I will always try my best to be loyal to. When I say loyal, loyal to the hard work that is required. And as chief judge, I'm almost finished. I'm counting now. I got about four months left as chief. It's a seven-year term.

And my successor will be Judge Diaz, who will do a wonderful job from North Carolina, but I told him I'm still counting the time. As a matter of fact, I would say that I wouldn't take a million dollars for the experience of being chief. But I wouldn't do it again for \$2 million. But no, my wonderful colleagues help a lot in that regard.

And one thing I just want to say about your theme, and I'm just a little bit about it because I'm going to be interviewed so I won't take a lot of time because you're getting into the personal things in some of the questions. But judging in a partisan era, now, it's interesting. Judicial officers, we are the only federal officers that take an oath that we will be impartial. If you look at the president's oath, congressperson's oath and all that, it talks about defending the constitution. But we're the only one that it says, and you swear to be impartial. Those were the guidelines that were meant to keep us inside of what our job is.

So the partisan part of it, well, the environment is such that, I would say this, the biggest difference is that now almost every time you hear an opinion that was given by the court, the next word is appointed by, whether it is a Democrat or it was a Republican. And it makes the-- and rightfully so. I think with great responsibility comes great accountability.

The public says, oh, that judge was appointed by President X and Y, Z. You would think based on my introduction that I would be the least vulnerable to that because I can say, wait a minute, I was appointed by a Democrat and a Republican to no avail because almost 90% of the time they always say, I'm a Clinton appointee because it fits with the narrative almost always. Oh, he's a Clinton appointee. That's true. But hardly ever will it say, I'm a President George W. Bush appointee. But that's neither here nor there. It doesn't matter.

But the reason is that it causes an increase in skepticism by the public. Are we doing it based on who the president is? Well, there are a lot of things that are different, if you look at history, it doesn't. For example, who knows who appointed Justice Earl Warren who wrote Brown v. Board? Yes, I think you volunteered, didn't you? You're looking right at me. You're looking right at me. Who appointed him?

AUDIENCE: No, I don't know.

JUDGE GREGORY: Well, it's good that you don't. I wish you were more of what the public is at. All right, this is Joseph. Who appointed Earl Warren?

JOSEPH: I don't know.

JUDGE GREGORY: Oh, I forgot.

JOSEPH: Eisenhower?

JUDGE GREGORY: You're right. No, should I take points off because his eyes said I'm guessing? Yes, it was Eisenhower. And Earl Warren was former governor of California, he was a conservative Republican. But on the court he wrote probably, maybe the top 10 all-time Supreme Court opinions. Yeah, not only did he write it, he made sure personally that it was a unanimous decision because he knew they could not come out fractured. When he said that separate but equal has no place in education, he knew they could not speak with a forked voice in his personality.

Hugo Black from Alabama, former senator, very liberal president-- I mean, justice. So the point, if you go back in history, this era but because now it's a little more vocal, it's a little more, I don't what you'd call it, what it is, but it does make it more difficult. But it doesn't matter to me because I knew when I became a judge that this is not a popularity contest.

On our best days we please half of the people. That's your best day. And the worst you please no one. But that's not what it's about. It's about whether or not what is required under the law. One of my favorite lines of-- if you haven't read this play, I really suggest that you do it. And if you want to take the shortcut, you can see the movie, but it is a wonderful movie, a great play called *A Man for all Seasons*, Sir Thomas Moore. It is awesome, played by Paul Schofield, who is a wonderful actor.

But there's a line in there where he's been on trial because he was refused to give his consent or blessing to the divorce of King Henry VIII. So he's ultimately put on trial in a sense for being against the king and innocent, of course. But he says one line, they were just talking about trying to get him because what he did was he was silent. He didn't say he'd condemn the divorce. He just would not give his blessing to it, and he was brilliant.

He said, doesn't silence mean consent? If I accuse you of a heinous crime and you are silent, it's not the presumption that you did it. How so it'd be different now with me that I speak not. And what he said was, he said that the world construes by his wits, but the court must construe by the law.

So I take the wits. That's what we have. You have a right to express yourself, to disagree with my opinions. That's your wit. That's your right, and that's what our constitution is about. But I must construe as to the law, and that is the only client that I have. And responsibility is to the law.

If I'm looking around to see who may or may not-- let me say something. I have gotten letters. I'm not going to tell you what case it is because that's not important, but it was a very important case but anyway, as all of them are. But I have received a letter, a missive that the least offensive word in the letter was the n-word. You get that. I said the least offensive word in the letter was the n-word.

Now, what am I to do in terms of these times? Do I fold my little tent and go off, or do I stay steady with the law and the constitution? I choose the latter every day. And the moment you begin to look over your shoulder and care about that, as a matter of fact, even saved it. It's not bravado. It's just the way I live in the sense that when I'm at work, I go to the store across the street and I go across to the bank and I do those things, I don't have guards. You know why? Because I don't want to live such that the easiest way to get to me is at my home.

So what I'm saying I don't want to say that that's the easiest place to get to me because no, it's me. I'm right here at the courthouse. I come out every day because I don't want my family to be a target for me because I got to lurk around there. But it doesn't bother me. So in this era of partisans type thing, yes, it makes the job a little more difficult but not the part that's important because the day I operate out of fear or favor is the day I should resign because I took an oath to be impartial. And if my fear is overcome, my faith, and justice, in my duty, then I should leave.

Bryan Stevenson, brilliant person, Equal Justice Initiative down in Alabama, he says that justice is a constant struggle. But he said that the balance of that struggle does not turn on the fear and skepticism of those who doubt the power of justice. It turns on the spirit and hope of those who believe.

I choose to believe not to doubt. And I think that's what makes it different, and that's what powers me to go on in spite of whatever the letters are. And I kind of chuckle when people say, Judge Gregory, I read your opinion. I really liked it. I'm never carried away with that. I'm grateful. I say, bless you. Thank you. But then I was thinking, well you know what, I've written a lot of opinions. I guess the rest of them you didn't like.

I chuckle but the point is you can't be carried away with applause because if you are, you'll never be able to stand the pressure and the crush of criticism. Instead, you do it because that's your duty and that's your obligation. And I just tick off some of the things that within the confines of my job sometimes are the partisan aspect of it.

One is text and context detects new laws, new administrations come along, further and different things, new legislatures every two years, they have new laws. Therefore, that's partisan based how it comes about. But it affects because you have new laws to deal with in terms of interpretation. But that's nothing more than the menu changes, but your job is still on the plate. And you're not focused on who put it on the plate and why. You just focus on what's on the plate.

The other is context, administrative agencies, what we call deference. Have you got the Chevron, Skidmore? Well, they have some deference we have to give to administration deciding and interpreting the law. That interpretation changed based on policy. Again, that's a part of the job in this sense.

The attorney general is in terms of immigration, what the policy is, who is allowed, what the policies are, convention against torture, withholding departure or deportation or asylum. And only the attorney general can grant asylum. No matter what we say in rule, only the attorney general can grant asylum. So that changes based on the executive in that. But those things-- solicitor general, very powerful and you've heard about. Some people call it the shadow or the 10th justice weighing in on whether or not cert granted on certain things they'll get permission. That change is based on the administration.

So that's all within the crucible of the job but not in the sense of changing the structure in how it was done, criminal law the same way, federalizing more crimes, punishment. But again, that changes in a partisan different changes. But it still is a matter of dealing with that. Nominations and confirmations, you go through what is your judicial philosophy.

Who knows a proud moment? I have many proud moments but one I must say, last October I went to Chicago to the Seventh Circuit to the investiture of my former law clerk on the Seventh Circuit of the Court of Appeals. That was awesome. Being on the Fourth Circuit and one of my former law clerks is now a Circuit Court of Appeals judge on the Seventh Circuit speaking at her investiture was incredible. And then another federal judge who's down in Middle District of Florida, another was in Western District of Virginia, and another teaching at one of the greatest law schools on Earth in present. Did I mention? No, I didn't say that.

And so the court make up in philosophy. What is the philosophy? People talk about that. You hear that at the hearings. What is your judicial philosophy? Those kind of things. Well, philosophy has changed so the make up of the court changes. We have 15 members on our court. We only have 13 now because two vacancies are-- they are unfilled. So we're waiting to see who congress or the senate will confirm to be on in those two spots so the make up changes.

But it's like the river. Water passes by, how many cubic feet of water must pass by you still on the shore? You can think about this now. I love to think about it. All this water passes by you, right? Cubic feet, millions, trillions and leave and never to be seen again but the river remains. And that's how the court is. It's like the river. People come and go and pass by and all those things, but the river remains. And it's the river of justice and that farmer that I think is most exciting in that.

And lastly, in bank arguments or en banc if you are French. But a little more frequent and I recall it and you write different dissents. I must say I wrote quite a few dissents when I first got on the court. Professor can tell you that. And so that changes some time in terms of how you do your work but not why.

And so that's all I would say about your topic, which is very-- and we get into the questions that we get but judging in a partisan era, if you stay the course and keep your eyes on what is the prize that is justice, it does not materially change. The players may change, but the script is the same. It's the constitution and it is the guideline and it is the purpose and the driving force.

And with that, I'm going to stop here and let my prosecutor-- I mean, the interviewer and we can get into some Q&A too probably, right?

INTERVIEWER: Yes.

JUDGE OK, all right. Thank you.

GREGORY:

[APPLAUSE]

INTERVIEWER: But something you said towards the end about the river reminds me of a comment that you've made in the past regarding the difference between being committed to justice and being right or even knowing all the right answers. And I found that to be a very interesting distinction, being committed to justice as opposed to having the right answer being completely-- convinced that one is right or even knowing any answer at all. And I wonder if you want to amplify on the importance of being committed, especially when the answers aren't ready at hand.

JUDGE Oh, it's a great question. I always say that just like excellence or perfection is the enemy of good, sometimes certainty can be the enemy of truth. And what I mean by this, I tell my colleagues sometimes, I said, I can't guarantee you that my opinion is right. The only thing I can guarantee you really when you're in dissent or if I'm in dissent is that one, I have a different view, and two, mine is backed as best as I can with the rigor of interpreting the law or the statute in question.

Those are only the things that I can guarantee. My view is different, but it is anchored in my interpretation and belief is what this statute, what this constitutional principle stands for. That's the only thing I guarantee. But I'm not arrogant enough to say, I know I'm right, and I know you're wrong. It doesn't give me the right to point a finger or to state some absolute-- because I think there would be no human progress if there were absolutes.

Do you know that there's a space on this place called the moon if you fix these things? No, we don't know. Well, people believe that the challenge is there and the hope and expectation of the human race lies on the other side of that projection. And in 1969 they were right. The moon is there to be landed on.

And it's the same thing with the law in terms of that. So many people who have come before you with and without portfolio. And to me, whether you're documented or undocumented, whether you've been a citizen for 50 years or whether you've been a citizen for five days or not at all, the constitution and the rights and protections are there. So the certainty is in the work. It is in the rigor and the commitment only.

But in terms of that, because think about it. I suppose Roger, his name was Roger too, Justice Taney probably in 1857 thought he was right in Dred Scott. Can you believe that? But I don't think he did have, in my view, the commitment to justice.

And let me tell you something. A lot of people don't know this. I had to tell this. I love history, man. Do you realize that on June 26, 1857, Abraham Lincoln wrote a brilliant response to Dred Scott. A lot of people don't know that. June 26, 1857, brilliant. He made Taney look horrible in terms of his reasoning, why he'd come to the conclusion that Blacks, we had no rights and all that, horrible, horrible, horrible.

But the beauty of it is this. If you look at the threads of Lincoln's position against Taney, it shows up six years later in the Gettysburg Address. So out of that crucible of the most horrible opinion, one of the most horrible ever written, Korematsu is way up there and some other ones too I don't have to get into. But out of that was born a spirit of freedom and hope that the nation somehow was able to overcome on the Battle of Gettysburg. And even Lincoln talked about if the constitution is what you said is, Taney is nothing more than an old wad to rot on a battlefield, and he connected with Gettysburg.

So anyway, just the brilliance of it, so I love that in terms of don't worry about that when people don't understand that. Stay in the course of what you believe the commitment to justice is. No matter how faint or distant that voice is, follow it and don't be afraid. Always learn from your colleagues. Don't be arrogant.

But again, and I'll tell you this, I won't say who it was. One time one of my colleagues said, I was in the senate, well, Roger I'm so sorry you could not come with us this time. You would be with us. Maybe next time you will, something to that effect. And I waited very patiently and didn't say a word. And when he or she finished, I said in the same care and compassionate voice, that's OK. I hope next time you will be on the right side.

That person never said that again to me because they realized I was not there for confirmation and the validity of him or her. I was to do the job that I swore before God and all the symbols to do. My point is sometimes you have to stand your ground and find ground. And even if you stand alone, let it be hallowed ground, hallowed in your commitment but not necessarily--

But it was a long answer, but I love that opportunity to talk about people philosophy. When they talk about the hearings, they want you to say, well, I would rule that way and whatever. No, this is what my promise is, my sacred oath is to the job. Go ahead.

INTERVIEWER: A wise chief judge has said that the purpose of standing on broad shoulders is not to be seen but to see. Whose shoulders have you stood upon, and what have they helped you to see?

JUDGE
GREGORY: Oh, well, there are many, but I must start with the anchor shoulder. It's always like when the pyramid that when-- I always say when they line up like that, the one at the bottom is carrying all that weight, my parents. My parents had very little formal education. My father, his formal education stopped in the fifth grade. My mother's formal education stopped in the eighth grade. I was the first person in my family to graduate from high school, let alone college and then to go to law school. But they gave me so much faith in the idea of industry and it could.

And the thing about it, I was adopted. Matter of fact, my bio says those people orphaned. I'm from Pittsburgh, spent all my time there except for a little part growing up and that was-- not growing up but in existence. I was born in Philadelphia. Why I was born in Philadelphia I have no idea. But I was there and my birth mother.

Anybody ever seen the movie *Antwone Fisher*? You have? Remember the scene where he meets Viola Davis's mom that one time? I lived that. I saw my birth mother one time for about two hours and never saw her again. I don't know who my birth father was.

But my point was this, going back to my shoulders. I was born with asthma. I had rickety legs and to tell the truth, I'm still pigeon toed. Of course, when you're a judge, people don't mention as much as they used to, I don't why. But anyway, and I was in a fire and God has taken away the memory of the pain, but I still have scars on my shoulder where I can see the burns.

But I think about this. If you lined up 10 little babies in a line and saved somebody, which one would you take? Ooh, they decided to take the one who had rickety legs, asthma, and scars from burns. They didn't my DNA. They didn't anything about my gene pool, and that's incredible and I remember that. So when I see people come before the court without portfolio and the world is turning their back, the dispossessed, the disinherited and nobody understands them, there is room for justice for them. My parents taught me that in their faith and their understanding. And so that anchors me.

And then along the way there are so many people. There are people in the neighborhood, and L. Douglas Wilder is my former law partner who taught me undergrad constitutional law and civil liberties. 10 years later, I would become his law partner after that class. I never thought of it, broad shoulders and so many people. I'm like the turtle on a post. If you see a turtle on a post, you know someone put him there. That's all, didn't get down there.

Yeah, and other part of it is this, the grace of being hoisted on those wonderful shoulders is not such I can see look at me, look at me or hi, I'm Roger Gregory. No, it's for me to see from a different vantage point the horizon and tell other people what may lie there ahead.

Last week I talked to a young lawyer. He was an extern. So I extend my clerkships by giving externships to people who otherwise sometime law firms or other law firms, other judges wouldn't even look at. I let them come in. And he's doing a great job, and I was sitting there and talking about my lessons, so I pass it on since I've seen those things.

And I want you to do that too. You are the creme de la creme. And people may not mention it to you, but they're proud of you and they watch you. They do. So don't ever get jaded and think that's not true. People you never meet will say, you know, I saw this woman. She was in and she was arguing her case, she had clients. Wow, I can-- excuse me, I can do that. You'll never know, but know you carry yourself in that spirit, so that's what I'm talking about.

INTERVIEWER: A quote, "The constitution construed in the light of well-established rules of legal interpretation might be made consistent in its details with the noble purposes avowed in its preamble," Frederick Douglass middle of the 19th century.

JUDGE Great, great person.

GREGORY:

INTERVIEWER: You have remarked that rarely, if ever, have lawyers come before you relying upon or citing the preamble. And you have also noted that it is, at the beginning of the preamble that the establishment of justice comes first. Why is it crucial even imperative to begin our work as lawyers, especially lawyers seeking social change with heeding the call to establish justice?

JUDGE GREGORY: Well, I think that the framers decided rightly so that the first purpose of government, if it is going to be this new experiment with the govern. And what's different about our country that it's the people who gave the authority for government. And so the first mandate was to establish justice.

Now, I know why they don't cite anything because the supreme court said the preamble is not a mandate as such that you can rely upon for a precedent. Forget about that. I don't mean to forget about a supreme court decision. I don't mean that. But I mean the point is this. Know when you argue your case as an advocate, it is important because I love jury trials and trying cases.

I always let the jury know this case is about justice. And if we leave here with something less than justice, then we have not carried out purpose. And how we do that? Not perfection but it is the whole idea of listening to the evidence you hear there. And unless you are convinced beyond a reasonable doubt, every and each element, justice can't happen.

So I think calling judges or bench trial or jurors or whomever to that noble purpose is important. For example, I always tell my law clerks, the First Amendment, powerful, right? Guess what, if you say everything people agree with, you don't need the First Amendment. You'll get there on the way home. The First Amendment is for people who say things that people don't agree with.

It's like what Governor Wilder taught in our class. He said that the ultimate definition of liberty and freedom is not to do what you want to do. The ultimate expression of freedom is not to do what otherwise seems to be required. That's the First Amendment. It's the right not to do what seems to be required. I don't have to do that. You got to do it.

In the flag case in the supreme court, I don't know if it was accidental, but that case came out that said that you don't have to salute the flag. The opinion was issued on Flag Day to let them know that no, the essence of patriotism and devotion to our constitution is an opinion that says you have that right. That's powerful. That is incredibly powerful.

They're not advocating people do that. But the point is everybody has a different way. You have to obey the laws. Violence and all those things that are terrible, you can't do those things. But you can speak at a voice that's different. And so that's what justice is, accepting that our framers gave us a framework which we are blessed to have the ability to see now where we were blind and do that which we didn't do. That's grace to be able to now to see where you were blind and correct it and do the things you did not do.

So that's what makes it so exciting and is room at the table for everybody, every ounce and thing that we can do about crediting ability and people who are otherwise able is room for everyone. And if we don't do that, then I don't think we've done justice. And lastly, I say this, without diversity and the full involvement of everybody, you might sometimes give mercy but you can't do justice. That's different. Justice without inclusion even if you have to stumble on the right result may not be justice because you haven't done which was required. So that's great. You might be merciful, but you can't be just. Go ahead.

INTERVIEWER: We hear a lot about, especially with hearings, we hear a lot about judicial temperament, the cultivation, the judicial temperament. I'm wondering, though, what kinds of temperaments should lawyers be cultivating?

JUDGE In their practice?

GREGORY:

INTERVIEWER: In their practice long before you get to the court. So are there habits of mind and practice that you would recommend for lawyers, especially at the beginning of their careers?

JUDGE Well, I think a good habit is this, especially if you're going to do some litigation. Go to the clerk's office. Stop by there early and often. Let them know you and let them know you don't know everything and you welcome their help.

GREGORY:

I say it this way. In Richmond, the clerk's office used to close at 4:45. I never understood why at 4:45, not 4:30, not 5:00. 4:45. Here's the difference between arrogant lawyer and a lawyer who does what I said about 4:35. Listen, because I can walk six, three, or four blocks up. Listen, I got to file something. I'll be right up. Don't worry, I got some work to do. Just knock on the door. That's one.

The other one, arrogant, know everything, comes in at 4:46. [VOCALIZING] We are closed. You get that. You know everything, I'm going to leave you to your own devices. Next in terms of the court, integrity, integrity, integrity. Don't ever let a client gets you to compromise your integrity with the court.

When you have a bond hearing, if you as an officer of the court have reason to believe your client is not going to show up or continue to violate the law, you cannot represent to the court this person is not dangerous or this person has no risk of them absconding. That's unethical. So integrity, honesty, and being on time and working hard. And I think that is the key. Temperament, you have to be respectful.

So I'll tell you a real quick story to that real quick. I had a case, my client was charged with an offense, a victim offense, personal victim offense and I had the victim on the stand cross-examining the person. And after my cross-examination, it was clear that I had accomplished my objective that is the person was confused and it was a doubt about the accuracy in terms of identification and all the kind of things.

You know what the judge did? The judge admitted, he said, Mr. Greg, I think she may be confused. Would you start all over? I said, what? I said, I'm not going to start all over and quite frankly, you can't make me start all over. I will not. Now, doesn't mean have to balance temperament with obligation. I said it very respectfully. But that would be malpractice for me to start all over and let the witness rehabilitate against my client.

And I just said, I said, well, judge, I have no questions. I'm finished. And if you ask questions, which you could, I have a continuing objection to all your questions. But I don't want to disturb you but for the record I can tell you and you sit down. You see it's a difference between being disrespectful and firm in your obligation to be an advocate for your client.

And some young lawyers and lawyers that are afraid might have said, OK, judge, I'll start all over, malpractice. Your client goes to prison because of you, you. And so that does it but always respect for the court absolutely because one thing, it doesn't help you at all to win your case, and jurors don't like it. The judge is someone they should respect the most in the courtroom. No, you can't do that. So that's important.

It's important to always be respectful but understand too what you're-- and the last thing I say is this. If anybody knows your case better than you is likely you're going to lose. I always made it. I kept it close to the vest and let the prosecution never knew exactly what my defense was going to be and how exactly it was going to work out. Yeah, or even whether or not my client was going to testify.

Yeah, but so I laugh at some of these lawyers now. They make all this money and they get on the television. I always wonder, are you advocating for your next case or your client? I'm sorry. I never did that. I litigated my cases in the courtroom. My clients were not fodder for my next case or commercial. I'm not criticizing anybody. I'm just saying these kind of things I think good lawyering is made up of. And the ones that I win or lose, let it be buried always in hallowed ground. Yeah, go ahead.

INTERVIEWER: How important or is it important to assume and extend good faith to your adversaries in relationship to-- and how important is that? Assuming that it is important to assume good faith on the part of your adversaries, is that important in the advocacy of your client?

JUDGE GREGORY: Oh, yes it is. First of all, you already have a-- first of all, this, I always assumed that my dear colleague on the other side was very capable. The moment you think that you are smart than this person, you can easily do it, you're going to lose. I assume they're smart and that's why I always start with what is the best argument that I would make if I was on her side? I start with that.

But I always assume good faith and that is-- of course, the era is changing. When I practiced law, we could settle cases over the telephone. If someone called me, I did a lot of defense work in terms of insurance defense work, product liability and those kinds of things that always defend the civil stuff. But I said, look, we're going to settle this case for \$50,000 or whatever. That's all we had to say. It was done and the order would come.

Now if you don't get it in writing, sometimes people show up at the courts, I don't where she is or he is. We don't have anything in writing. What do you mean? That was unheard of. And the bar would just run you out of town. It's just not the way you practice. So I always do it.

I don't what the environment is now. But the way you do it this. Don't be angry. Get things in writing there. If that's the environment, say that. Well, you know what, I'm going to shoot this email to you right now confirming what we said. If you don't mind, just hit me back real quick and just say you confirm. So you can do it in a pleasant way without saying, well, I don't trust you. I got to have it in writing. See, so there's a gentle way to morph into what the environment is now. But there's a mean way.

And another thing too, never gloat in front of your client. Like when I settle the case, for example, if I'm doing an insurance defense case and I had authority for \$100,000 but they settled for \$25,000, you never let the other side that you have more money ever. You always say something like, oh, you got me this time. You got more money. I tell you they ain't going to get that kind of money to you but you did a good job, right? Because of you. You left \$75,000 on the table. One, they're going to remember that.

See, that's where integrity in terms of that. That's the kind of thing. You've got to look at the broader sense. Sometime lawyers can only-- is so myopic. They only see themselves just about this far from their nose. But I always look way down the line who's got to come behind me? Who's got to solve that? So that's a thing.

And so those are the kind of things that I think about makes a good practice, and I love it. I didn't want to be a judge at all. Matter of fact, when the offer came to even consider it, I said no. I took a trip to India with the Christian Children's Fund and forgot all about it and came back. And then my partner, he was then the former governor then, I guess, no, no, he was a former governor, but he said, this is important, Rod. You ought to consider it.

And then the senators and Senator Rob and then with President Clinton, so my point is that I wasn't like this is something I want to do and nothing wrong with that. If that's your ambition, go for it. But I'm just saying mine was different because I love practicing law so much.

INTERVIEWER: You have led me to the last question. I'm going to ask and then we open it up.

JUDGE Oh, sure.

GREGORY:

INTERVIEWER: Which is the lawyers and certainly all the brilliant lawyers and the brilliant lawyers in making this room have a reputation for being type A for being well playing, for knowing what the next move is, don't make the next move until the next move. But what role should lawyers allow for serendipity in the advancement of their careers? The thing that they didn't expect to happen like for instance, you love your practice, you love being a lawyer. Here comes another opportunity could have said notwithstanding, right, this is what I love to do but you were open to it, right?

And I often wonder, especially given the high achievement brilliance of our students that there's the path that one is supposed to continue to follow. And then there are many paths that you might not see or pay proper attention to which could lead to other opportunities and way more possibilities in terms of helping others serving others. But if you're not open to the thing that you didn't expect, you may miss out on something that is just as bountiful or even maybe even more bountiful than what you had in mind for yourself.

JUDGE Well, that's a good question. And it comes to mind that when I was at Michigan Law School, when I went there, and I'm glad you're not like this, and I'm just telling it's me, I'm telling you it's only me and don't do what I did. **GREGORY:** When I went to law school, my whole thing was I wanted to be a lawyer. It really was teacher's assistant, law review, things like that, it wasn't what I wanted. And it was silly on steroids, but I wanted to be a lawyer. But I'm telling you this don't do that. But you need to do things like that.

But what I did do, though, I went to all of my classes, every one. I never skipped a class because I loved it because I knew that the professors had something that I wanted and I needed. So I had people like, for example, Yale Kamisar for criminal law. Oh my goodness, awesome and people like that. And then I had some ones in White that made it still use it for COMMTRANS. JJ White was my COMMTRANS professor.

INTERVIEWER: I have to say this. He was my contracts professor too. Keep going.

JUDGE He did. And then for tax, I had L. Hart Wright, who was the principal draft of the 1950 Internal Revenue Code. I **GREGORY:** had no idea I had any interest in tax. But I was so struck by his classes in that I became a tax lawyer. So when I graduated from Michigan Law School, I went to a large firm in Detroit as a tax lawyer. That shows you somewhat serendipity on steroids.

But I want to pass this on to you, I'm going to pass on to you. You can take it very well, but this is a great nugget and it held me in good stead all of my practice. And this is what he said. He was from Oklahoma so he had that Southwestern twang. He said, well, you know-- he was talking about exams, but I knew right away it had more implications than exams.

He said, when you get an exam question, just don't read the questions and start writing. He said, instead do this. Read the question very carefully then sit back, take a deep breath and say to yourself facts, what should I do? He said because it's always the facts that tell you what to do. Oh, that was like a light bulb in your head.

And I always used-- a lot of lawyers, I'm talking all about a personality. We always want to impose our will on something, not in the negative, not because we're mean, but that's how eight types are. I know what this is. I'm going to figure it out myself. See, I love geometry. So it's like this. Force goes from down to the paper because you're going to impose your will on it. Wrong. The force must come from down up.

Let the facts rise to you and let it tell you what to do because I would-- sometime when I was practicing law, I would look at an exhibit for like 15 minutes, a photograph, and I would say to myself, what's in this photograph that can help me? Most lawyers look at it and say, oh, this is a photograph of the crime scene, OK. The jury will be able to see what the crime scene looked like.

No, the photograph has a story to tell and the question is, are you receptive to this message? Because when you are, then you can take the law and apply it. But you can know a whole lot of law, but if you never see the facts, it doesn't make any difference. It makes no difference. So that's the kind of thing.

So from that, I went to the big firm and then, again, serendipity. I won't name the client because you would know the client. We're a regional counsel to a client that had a recall and recall everybody and their uncle was suing them, so there are a lot of cases. I went to the product liability department and said-- he said, Roger, would you like to work on a product liability case? So I went to my tax, always respectful, I went to the tax partner and said, do you mind if I work with your partner on this case? He said, yeah, go ahead. I never went back to taxes.

And I went to Hunton, left Detroit and went to Hunton & Williams, Justice Powell's old firm and worked there. And I did product liability in all kinds of cases with a lawyer named Louis Booker, who was just awesome. So my point is don't just dictate. Let it come to you. Let the road rise as the old Irish blessed, right? To rise to meet you. You will be at your back and the rains fall softly on you. It's beautiful. Let it fall softly on your fields. You don't know where you might be in terms of where your real stride is.

And that led me to then leaving that and you've got to take a chance. And then I became a partner at Wilder & Gregory. I loved that and we did bond, working on all kinds of things like that. But then when this opportunity, I decided to do the judgeship. And don't forget President Clinton nominated me at the end of June. Yeah, well, near the end of June 2000, and then I went without a hearing for six months.

And then he recess appointed me. I got the call on Christmas night 2000 that I was going to be recess appointed to the court. And I didn't know much about recess appointment, so I did a little research. Guess what, the first person recess appointed was John Rutledge. And he was not confirmed by the senate. He had a nervous breakdown and wasn't heard from too much after that.

My research wasn't going to work. But I tell people young people, don't stop in the first chapter. You've got to read the whole book because when I kept on reading, I saw that I mentioned before Earl Warren was recess-appointed to the supreme court. Bill Brennan, recess to court. So one of the luminaries Spottswood Robinson from Richmond was a recess appointee, all these incredible people. But my thing is this, I had to give up my law practice. And recess appointed, you're only there for till the end of the next congress about a year, I'll be gone.

So you have to step out on faith because at some point you're going to be put to the test in that regard and let it flow, and that's going to be some stuff. Show me a person who has never failed and I'll tell you a person-- I'll show you a person who has never succeeded. Yeah, because you look at some of the great people like these moguls in retail, two or three bankruptcies failed before they came known for the stores. I don't need to name them for their stores. You wouldn't them. They're some seasonal stores that you might know about because they dared to test the limit and test their mettle.

But know this, the law is a wonderful profession, just full of so many opportunities. And you will in spite of the times, and even though you go through a lot of difficulties, and it's been-- the last 12 months it's been difficult for me. I lost my daughter who passed. I have three daughters. I still have three daughters, two are with me and the other one God decided to bring her closer to him, 40 years old.

But you get through that because life is about a lot of things. Everything is not happy. Everything is not the way you always want it to be. But if you stay in terms of the course that your service is important. It's really what you do for others that really lasts. The rest of stuff is temporal. What you build in the hearts of other people, that's what eternal things are.

You look back, it won't be because of how much money you make. And nothing wrong with making money. No, I'm not saying that. I'm not just chewing money. There's nothing wrong. You work hard, you earn that. But what I love about former law clerks who work at some big firms making seven figures, but they're also working on death penalty cases pro bono. Yeah, they're also working on a lot of public interest thing, so you can't pigeonhole. Hey, you over there.

Don't worry about that. You don't know my story. You don't know where my heart is, so don't pigeonhole and say, well, you decided to go to the big firm. You decided to do that. I did. But you also don't know that I also decided that justice was still important and service was still important, and trying to make the world better and brighter for everybody was important and still is to me. So don't let people judge you.

And last I say this about this question. In the building I'm in right now, I was appointed years ago, a long time ago I was appointed to represent a woman, and I went in there and I introduced myself and said, I'm appointed to represent you. I could see her face just fell. She was a different race and she saw me I could just see it and without missing a beat.

And it didn't matter that I went to University of Michigan Law School. It didn't matter what my accomplishments were. She was in the reality of what she saw and what she believed and what she had been taught. But here's what I want you to remember. Your assignment is always more important than someone's assessment. If you don't get that, you won't understand what it's about, your assignment is always more important than other people's assessment so without missing a beat.

Anyway, long story short, it all went well. She wrote me a beautiful letter. But if I had stopped at the level of what she knew and made that my-- I could have turned around and said, excuse me, I don't have to have this. I can go back to the office, right? But no, that wasn't the cause. So don't let people-- what you receive ought not to be dictate what comes-- what comes to you in anger ought not to dictate what comes from you. You get those prepositions, though. Again, all this stuff. You got a lot of homework when you get home.

You see because if you do, that thing that anything that somebody said-- remember I told you about that letter I received that the least offensive word was the n-word? If I had received that and from me came that venom, then I would lose sight on my assignment. You see the point?

And your assignment is more noble. It's much more noble. That's what's angers you. Those are the kind of things no matter what happens, whether it's good or bad or loss or gain or the embrace of a daughter and all those things that you get through it because you know that's not the end. That's not the purpose. That's not what purpose is. And you will be disappointed sometimes and those things are going to happen, but those things don't delay you.

So it's been a long and winding road, but at no moment did I ever lose sight of a view of God's grace. And that's an opportunity to have another day to be better to serve more to love deeper and to really have an idea of-- and there's a chill climate we live in, there's no question about it. And just as Marshall said it so well in one of his last addresses, I'm, sort of, paraphrasing what he said, but in his call that he called it I Dissent.

But part of the last part of it he talked about he was receiving the Liberty Bell Award in Philadelphia. You can imagine all those years Thurgood Marshall and all those cases he had a quarter of a century on the Supreme Court Solicitor General, just unbelievable arguments for the court. And he said something to the effective. He said, in the chill climate that we live in, we must go against the prevailing winds.

He said the prevailing winds and we must dissent from apathy. We must dissent from indifference. We must dissent from hate, from fear, from mistrust. He says about the government, he said that we must get to work and do the work that's necessary to be done. He said that job belongs to us. He said that the legal system can, as he put it, he said the legal system can open up doors and sometimes even knock down walls, but it cannot build bridges. That job belongs to me and you. And therefore, we must continue this drive.

And he said, we can't reach that and really attain freedom until we learn to appreciate what is different. And we get the courage to muster the courage to understand what is fundamentally the same. And we need to take a chance and reach out because justice is on the other side. And those words are always steering to me in that regard, saying we can't do it as Afro and white, rich, poor, educated and illiterate. We have to do it together. And I think his words that he said over 30 years ago ring true today and in our profession.

This is a noble profession and it's one that noble people are going to do it. And I would tell people, I'm not honest because I'm a lawyer. Being a lawyer, we passed the bar and graduated. That's not going to flip a switch. I said I'm honest because I learned it from my parents' table, integrity and those kind of things. So always keep that intact and enjoy a great healthy career. I wish you well.

And when it comes to the Fourth Circuit, I look forward. I must say this, I'll tell you. All I can say is because I can say this because I can say this, period. No, I can say this because no matter what the opinion is because it was a court week. University of Virginia, your clinic that argued for us, the Cavaliers acquitted themselves well. And I say that in open court, right. They were awesome.

And I tell young people, don't be afraid when you come to court. Some of the best arguments I ever heard on the Fourth Circuit came from younger lawyers because they didn't presume anything. They were well prepared and ready and right on top of the law. So don't be intimidated by it. Don't be arrogant, but always listen very carefully.

And no matter what happens, since COVID, we changed but assuming we changed that, but we come down with the only Circuit, we come down and shake your hand and greet you and wish you well, which is a great, great, great thing on the court. Anyway, so that's it.

INTERVIEWER: Another round of applause for Judge Gregory.

[APPLAUSE]