

First Women: The Contribution of American Women to the Law

Infomal Reflections of a Woman in the Law

Ilana Diamond Rovner

Recommended Citation

Ilana Diamond Rovner, *Infomal Reflections of a Woman in the Law*, 28 Val. U. L. Rev. 1183 (1994).
Available at: <http://scholar.valpo.edu/vulr/vol28/iss4/2>

This Essay is brought to you for free and open access by the Valparaiso University Law School at ValpoScholar. It has been accepted for inclusion in Valparaiso University Law Review by an authorized administrator of ValpoScholar. For more information, please contact a ValpoScholar staff member at scholar@valpo.edu.



INFORMAL REFLECTIONS OF A WOMAN IN THE LAW

ILANA DIAMOND ROVNER*

I sometimes believe I was born wanting to be a lawyer. My parents still speak of an essay written when I was seven discussing my future plans. I had never met a woman lawyer nor seen a woman lawyer. Even so, I believed that lawyers helped people and were a force for good in society. I still believe that. The neighbors called me Portia. I always thought I would be a lawyer. But I never even hoped to be a judge. The truth of the matter is that I have never completely been able to believe that I am fortunate enough to wear a robe. Nine years plus, and it still all seems somewhat unbelievable to me.

A shock went through me the very first time I stood outside of the courtroom on the nineteenth floor of the Everett Dirksen Federal Building and saw the words "United States District Court — Judge Rovner" emblazoned on the sign. I had the same sort of shock after I joined the Court of Appeals, when I walked past the courtroom and saw the words "United States District Court — Judge Williams" in that same spot. I am having a very difficult time letting go.

I loved that courtroom more than I could ever adequately express, and at the risk of seeming like Pollyanna, that was a place in which I tried my best to do the right thing as often as I possibly could.

I am often asked whether or not I ever believed that I would be a federal judge. The answer to that question is a resounding "no." When I started out at Georgetown University Law School, only two women had ever been appointed federal judges. Those women were viewed as some sort of phenomena. Surely it was not something that I would have ever dared to dream about, let alone actually aspire to be.

I was sworn in as a district judge on November 1, 1984, and returned to a building which I love dearly, despite the fact that we all freeze in the winter, and in the summer as well. I say "returned" because I had spent a number of years there as law clerk to Judge James B. Parsons of the U.S. District Court and as an Assistant U.S. Attorney before entering into state government.

I came to the Federal Building with somewhat different paraphernalia than is carted in by most of the federal judges. In my cardboard boxes were the best

* Judge, U.S. Court of Appeals for the Seventh Circuit.

wand that money could buy, a pair of wings which were not the usual government issue, and a tiara which would have made a princess green with envy. Those were items that had been with me since my days in the prosecutor's office, and I came by them as follows.

When I tried my first case, I had been in the U.S. Attorney's office for only two days. It was 1973, and to that date, there had been very few women in the office. Those who had been there had not, for the most part, been given the opportunity to try cases. The FBI agents on the case, which involved a theft in interstate commerce, were very wary about having me on the case at all, and the fact that I would actually question witnesses was extremely worrisome to them. Hard as they tried to be polite, their nervousness was palpable.

The case involved a forklift truck that had been stolen in Indiana and brought to Illinois. One of the FBI agents said to me skeptically, "Do you know what a forklift truck is?" I responded incredulously, "Do I know what a forklift truck is? Here is a forklift truck." And I promptly drew a crane. With that, their nervousness turned into full-blown paranoia. The case was tried for three days. The defendant refused to stipulate to anything at all and so a ream of documents needed to be authenticated. In his opening remarks, the first-chair assistant told the jury that some of the case would be very boring, that there would be documents introduced into evidence, that the introduction of these documents would take some time, and that it would not be very interesting. Of course, as luck would have it, I was given the document witnesses.

When I stood up to begin questioning, I turned to the jury and said, "Good morning, ladies and gentlemen. I am the boring part." I shall never forget Judge Hubert Will looking down at me, wondering about this woman who was causing the prosecution table to blanch, and saying, "Well, bore on with it." That was the last time I stood up and started a presentation with a joke to a jury.

In any event, the case ended with a conviction. On the sentencing date, my trial partner was out of town, and I was given the opportunity to become involved with my first sentencing. The defense attorney was passionate in pleading for probation, explaining that the defendant had a serious heart condition and that he was nearly seventy-five years old. I, on the other hand, said very little. Judge Will listened intently and then sentenced the defendant to 90 days incarceration.

The defense attorney turned to Judge Will and said, "Judge, this man is seventy-four years old and very ill with a heart condition. He absolutely must begin serving his sentence immediately to get it over with because his heart will not hold out with the pure worry of this situation. Please, Judge, please. It is now October the fifteenth. If he is forced to spend ninety days in jail, he will

spend what will probably be his last Thanksgiving and his last Christmas in jail. Judge, please, can you make it sixty days?"

Judge Will looked down at the three of us and said, "Well, I'll leave it to the prosecutor. What do you say, Madame Prosecutor? Shall it be sixty or ninety?" And I said, without a second's hesitation, "Judge, I would never plead for thirty extra days of a man's life." "Now then," said Judge Will, "that is a first. Sixty days."

With the sincere thanks of the defendant and his attorney, I gathered my papers, walked out into the hall, and caught an elevator to the fourteenth floor. I had not been in my office more than three minutes when I was summoned to the office of the then-United States Attorney, Jim Thompson. Sitting with him were the First Assistant, the Chief of the Criminal Division, and the Chief of the Special Investigations Division. How they all gathered so quickly has always been somewhat of a mystery to me. "Ah," said Mr. Thompson, "here she is, the fairy godmother of the U.S. Attorney's Office. You're not kidding, you'll never ask for thirty extra days of a man's life, because henceforth and forevermore, you will try civil cases. And if you want to be a fairy godmother, there are lots of other places to do it." That day has been emblazoned on my memory. Lest I forget, my co-workers presented me with the aforementioned wand, the wings, and the tiara, which, I must admit, I treasure to this day.

My years in the U.S. Attorney's Office were among the most meaningful in my life. In actuality, I did try a number of other criminal cases, but the work that I found most satisfying was in the area of civil rights. I was privileged to try some of the most significant and complex public employment discrimination suits then pending in the nation, including landmark cases involving the Chicago Police Department and the Chicago Fire Department.

But because of my fairy godmother reputation, many prosecutors wondered, when I was named to the bench, how I would handle sentencings, and indeed, the following apocryphal story went the rounds: The scene is the courtroom. I say to the defendant, "Mr. Smith, I am very sad to tell you that a jury of your peers has found you guilty and it is now my duty to sentence you to prison. I must do this, but Mr. Smith, I don't want you to worry about Mrs. Smith and the children. They will be living with Dr. Rovner and me for the duration."

For my move to the federal courthouse, added to the basic tools of my trade (the wand, the tiara, the wings) were two new indicia of my position—a very large purple wizard's cap and a purple robe with my name spelled out in rhinestones. I have managed to control myself so that the latter outfit comes out only on Halloween.

I sat for the very first time as a judge on November 4, 1984. I had decided that I needed a total personality overhaul, and in order that this might go smoothly, I had practiced in front of a mirror sucking lemons and lowering my voice by a good three octaves. I came onto the bench to a full gallery, half of whom were lawyers appearing for status calls and motions, the other half were well-wishers, including my mother, my father, and the Governor of the State of Illinois. The Governor I could handle, but has anyone ever tried to do *anything* in front of their mother and father? I understand that halfway through the call, my mother turned to my father and asked, "Does she have any idea of what she is doing?" My father assured her that I did not, but thought that I showed some promise.

I had carried with me into the courtroom that day my brand new persona—businesslike and somewhat curt—intoning my remarks in a deep voice patterned after "Lurch" of the *Addams Family*. I had heard about five cases when it suddenly occurred to me that neither my voice nor my mind would hold out much longer. I was starting to get a sore throat, and I did not like the person that I had become. And so, with a flick of the shoulders, causing some shock, I expect, to the lawyers in the audience, my voice went up three octaves and I became myself. It often struck me that myself might not be what lawyers would find if they went out to—let us say—an establishment such as "Rent-a-Judge." On the other hand, it certainly has been a lot more comfortable than trying to be someone else.

Every judge has his or her own style. Being on the District Court is much like being an independent contractor. The fact of the matter is that if one visits twenty courtrooms, one will find twenty different individuals conducting proceedings in twenty different ways.

It was not always thus. There was a time not so very long ago when federal judges were pressed from one mold. They were Caucasian males, with the rarest exception, and they arrived most often via silk stocking law firms. My own route to the bench was unheard of and nearly impossible.

I have always been acutely aware of how difficult it has been for many of today's successful women to achieve what they have. Today, it is not at all unusual for women to make up fifty percent of their law school classes. Coming from an era when I was one of three women in my freshman law school section (two after Thanksgiving break), I was in awe of the women who had gone before me, knowing what a struggle it had been for them. I knew women who graduated from law school and became legal secretaries because there were so few opportunities in the law open to them.

It was a very lonely existence for us. There were men who made no secret

of their repugnance at having women in their midst. I had one very elderly law professor who told us that he wore a black armband on the day that women first attended class. Often we were treated very differently than the men. Some days, we would be called on constantly. Other days we would be totally ignored. There were, of course, some wonderful professors and classmates who wanted women to succeed, and I will always feel gratitude to those individuals.

In discussions with the new generation of women lawyers, I have sometimes detected a "they should have fought harder" attitude toward the women of earlier generations. Perhaps they have difficulty understanding that it was nearly impossible to buck the establishment. We were viewed as anomalies in a profession that had no use for women to begin with. There were so few role models, and the profession was in many ways virtually the same in 1960 as it had been in 1860. I have always been amazed at the lack of bitterness among my women friends who managed to survive the obstacle course of law school before the 1970s, only to find that the jobs available to them were quite different from those available to the men in their class—men who sometimes ranked hundreds of places beneath them. I am very proud of the young women lawyers I see, of their strength and their attitudes, and yet at the same time, I want them to fully understand the struggle that other women have endured in order to ease the way for future generations.

My own path to the bench was not remotely typical. After completing law school, I promptly retired to have a family. I returned to legal work when my son started school in 1972. My timing could not have been better. Judge Parsons, the first African-American on a United States District Court, was making a concerted effort to hire a female law clerk—his first. In great measure, this was so because his secretary—she who had all of the qualities and none of the opportunities to study law—had encouraged the idea of a woman clerk. Luck is so much a part of all of our lives—being in a particular place at a particular time.

In early 1974, I became Chief of the Public Protection Unit in the U.S. Attorney's office—the first woman supervisor in its history. I marvel today at how much interest was engendered by that event and how much discussion about whether the men in my unit would be willing to report to a woman. Most were, and I was followed by a number of other women supervisors. I stayed in the U.S. Attorney's office for four years and joined the governor in 1977 as his deputy and legal counsel. In 1984, I was appointed to the federal bench, and in 1992, I was elevated to the Seventh Circuit Court of Appeals.

Today there are many roads that lead to meaningful careers in the law—including federal judgeships. For women, the opportunities are indeed different than those that awaited the women of my generation. I saw but two

or three others like myself in gown and cap when I graduated law school. We had no expectations of any moment. We were less than one percent of that sea of black gabardine. We had virtually no role models—so few who looked quite like us. I could not *imagine* on that day that within thirty years, close to fifteen percent of federal judges would be women, let alone entertain the daring notion that fifteen percent was a *very* modest figure.

A few years ago, I was in the hospital for major surgery, and all my thoughts were focused inward. But something occurred that for a few brief moments allowed me to look outside myself. It happened that both the intern and the resident on my case were women, and as I looked at them, even through the fog of my personal circumstance, I felt such pride in them and such joy, and I thought how glad I was to have lived to see such a day. I cannot begin to estimate the number of women and men who have told me of their pleasure at seeing women in positions of professional and civic responsibility. I experienced a similar moment one morning during one of the daily motion calls I conducted as a district judge. A case was called, and four women came forward representing four different parties. I looked down at them, my heart swelling, and said, "You cannot imagine how good you all look to me, nor how exciting it is that we have reached a day when it is possible to see four women representing four different parties standing before me." And one of the women responded, "It looks pretty good from where we are standing, too."

Moments such as this leave me with absolutely no doubt that a great many people feel a positive need to see women fully represented in such positions, not only for the sake of the women, but for what the women will contribute. We should never forget, as my neighbors taught me early, that the most famous lawyer in literature, and the inspiration for legions, both male and female, is Shakespeare's Portia. How fortunate we are to see the dawning of this day of many Portias. How fortunate to be in a position to further what has been so well begun. How fortunate to be able to teach our daughters and sons that positive social change is not only possible, but is ongoing, and that we, and they, all need to continue the forward momentum. Let us take care to do so.