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In Honor of Justice Thurgood Marshall: Thurgood Marshall: A Personal Tribute

The Honorable Constance Baker Motely

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THURGOOD MARSHALL: A PERSONAL TRIBUTE

CONSTANCE BAKER MOTLEY*

As soon as Thurgood Marshall announced his decision to retire as a Justice of the Supreme Court, assessments of his life and contributions to the development of constitutional law began to pour in, and -- much to my surprise in this conservative climate -- they are all favorable.

But lost in the shuffle may well be his personal, unique contributions to the advancement of women in the law. I want to acknowledge my own personal debt to Thurgood Marshall for aiding my career at a time when nobody was hiring women lawyers.

In October 1945, I was in my last year at Columbia Law School in New York City. World War II had ended abruptly in August. The women in my class had high hopes but few offers. I learned from my classmates that a small mid-town firm was looking to hire a recent graduate. I was in the reception room waiting for my interview when a balding middle-aged white male appeared at an inner door. The receptionist had not even asked me to have a seat. After the door quickly closed, she still did not say, "have a seat, Mr. --- will be right with you." She knew as well as I that the interview was over.

When I returned to school, another classmate told me about the law clerk vacancy at the NAACP Legal Defense and Educational Fund, Inc. (The Inc. Fund). I hurried down to its offices on the lower Fifth Avenue for an interview and was hired by Thurgood Marshall, its chief counsel, on the spot.

Marshall grew up in America at a time when nobody had to tell him that African-American males were on the bottom rung of the ladder in every conceivable professional endeavor, and that African-American women were not even on the ladder.

He personally had no problem with perceiving women as entitled to equal employment opportunities. He also told me about an African-American woman he admired who was practicing in Queens and who had worked her way through law school by working at night in a laundry. Over his years at the Inc. Fund

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(from 1945 to 1961), he made a point of telling me about every successful African-American woman he encountered.

In 1945, women lawyers were a joke in most courthouses and unheard of in virtually every place except New York City. I remember when Marshall sent me to Jackson, Mississippi in 1949 to assist Robert Carter, his chief assistant, with a case involving the equalization of "negro" teachers' salaries. The whole town turned out to see the "Negro" lawyers from New York, "one of who [was] a woman."

Beginning in 1947, Marshall allowed me to accompany him to virtually every case he argued in the Supreme Court, including *Brown v. Board of Education*. In 1952, he moved my admission to the Supreme Court, where I ended up arguing ten cases, winning nine. (As a result, James Meredith, the plaintiff in a case against the University of Mississippi became a national hero. In 1962, Charlayne Hunter (Gault) and Hamilton Holmes dragged Georgia and the University of Georgia kicking and screaming into the 20th century. George Wallace and Alabama finally gave up massive resistance in 1963, and South Carolina now brags about Harvey Gantt, the plaintiff in the Clemson College case in 1962.)

When I left the Inc. Fund in 1965 to become the first woman president of the Borough of Manhattan, you could have counted on one hand women who had actually argued a case before the United States Supreme Court.

In January 1966, when President Johnson nominated me to be a United States District Judge, only two other women were District Judges. Sarah Hughes in Texas, who swore Johnson in after Kennedy was assassinated in 1963, and Burnita Matthews in the District of Columbia.

Johnson had first submitted my name for a seat on the Court of Appeals for the Second Circuit but the opposition to my appointment was so great apparently because I was a woman, that Johnson had to withdraw my name. I remember now how stunned Johnson and Marshall were by the strength and intensity of the opposition.

I was finally confirmed as a district court judge by the Senate in August -- the first African-American woman appointed to the federal bench. When I went to Washington for the announcement of my appointment, Johnson told me then that the first opening on the Supreme Court would go to Thurgood Marshall who was then the Solicitor General of the United States.

Johnson also said to me, "You go ahead and accept the District Court judgeship, and just work your way up the ladder." I am now a Senior United

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States District Judge, and I was the chief judge of the country's largest federal trial court from 1982 until 1988. But if it had not been for Thurgood Marshall, no one would ever have heard of Constance Baker Motley.

