

Kagan Dishes on Taking Chances, Anger at the Court and Going to Law School 'For All the Wrong Reasons'

Supreme Court Brief (Online)

November 1, 2016 Tuesday

Copyright 2016 ALM Media Properties, LLC All Rights Reserved Further duplication without permission is prohibited

THE NATIONAL
LAW JOURNAL

Length: 1142 words

Byline: Tony Mauro

Body

U.S. Supreme Court Justice Elena Kagan was clearly pumped by the audience she was addressing in Crystal City, Virginia, recently.

Hundreds of law students looking for public interest jobs at the Equal Justice Works career fair took a break to hear Kagan's own story about her path to the nation's highest court. Along the way, she offered advice, life lessons, and stories from her life at the court.

"Can I say first just how thrilled I am to be here today?" she asked Judge Ann Claire Williams of the U.S. Court of Appeals for the Seventh Circuit, who was leading the discussion. "It's a great thing you are all doing, at the start of your legal careers to be here looking for ways to promote the public good. You should all feel great about yourselves."

Some excerpts from the conversation:

Kagan's mother: "She was my first writing instructor. I have to say, she was a tough teacher. Everybody who went through my mother's classes, she was a tough teacher. Half of the people, I think, who went through, they come up to me and they say, 'I was in your mother's sixth grade class and it changed me forever.' The other half are like, 'I was in your mother's sixth grade class and it was the most terrifying experience of my life.'

"Maybe people thought both. She had high standards, I will say, and she definitely had high standards when it came to writing. She did take some interest in my writing and so she was my first writing teacher. The more you work at it, the more you edit an opinion, the better it gets!"

Law school: "I honestly went to law school for all the wrong reasons. When I was dean [of Harvard Law School], there would always be these admitted-student weekends when you talk to the students who you just admitted and you're trying to get them to come to your school.

"I was in the middle of talking to them and I just said something like 'Well, you shouldn't go to law school unless you really want to go to law school. You shouldn't go to law school because you can't think of anything better to do or because it will keep your options open or all of these reasons that.' ... Then I sort of stopped myself in the middle, because I thought to myself, 'I

Kagan Dishes on Taking Chances, Anger at the Court and Going to Law School 'For All the Wrong Reasons'

think that's why you went to law school.' But I was very lucky because when I got to law school, I realized right away that I loved it."

Taking chances: "When I was dean, when people would ask for advice I always used to say, I think law students are too risk-averse, that they're too much, 'Everybody else is doing this, so I have to do this too.' They say too much, 'Well, I'm sorry, but that's not on my plan. I have a plan and it doesn't include that.' I've found in my life that the best opportunities are the ones that you didn't expect."

"I'm a huge believer in serendipity in life and in careers and especially in legal careers, and think that what young people ought to do, and not-so-young people as well, is to just sort of keep their eyes open for opportunities. All the most fun things that I've done in my life, I didn't really expect to do."

On listening well: "I think I am a good listener. If you said to me, 'What are your top three qualities?' Don't ask me for the other two, but I think I might say, 'I listen pretty well.' I think that that's been important pretty much every place that I've been. It was important as a dean, and it's certainly important on the court when we're all nine of us sitting around a table and we're listening to each other and trying to figure out what each other is saying and why each person is saying what he or she is saying and trying to figure out a way to reach consensus where we can or just to figure out where the lines of difference are."

Eight-member court: "Since Justice [Antonin] Scalia's passing, we've worked really hard to try to reach agreement. We have not gone 4-4 in very many cases, and I give an enormous amount of credit to the chief justice for this, and I give a lot of credit to my colleagues as well. Still, there are times when we can't reach agreement, and when you can't reach agreement on a case that you've taken, it's a serious thing. It's a serious matter."

"Sometimes, even though we've reached agreement, we've only done it by essentially re-characterizing the issues in a way that it's not really the issue that people need decided. We've sort of massaged the thing to make it, to decide a different question that honestly nobody really cares about, when the issue that people do care about and need decided is still left unresolved. That, too, is a problem."

Anger management: "You'd like to win. I'm a pretty competitive person. Everybody who knows me will tell you. There are times when I've come back from conference and I'm ready to slam my fists into a wall. At the same time, my buddy Justice Scalia ... used to say, 'if you take it personally, you shouldn't be in this job.' I think that that's absolutely right, that you can't take it personally. First off, just for sort of strategic reasons, there's going to be the next case and there's going to be the next case and there's going to be the next case after that, and you better have continuing good relationships with your colleagues."

Legal writing: "It's hard to make law clear. Law can be incredibly complicated and arcane, and not particularly intuitive, some of the legal issues that we confront. I try very hard to make my opinions readable and to make them understandable by ordinary people, even without law degrees. People who will put in the time and effort and energy to read an opinion, I hope that I'll be able to be understood by those people."

"If I can tell a story in a way that makes you see, 'Of course! That's right! That's why you should have reached that result.' I do think of opinions as a kind of, here's my story for why the court was right or why, if I'm in dissent, why the court was wrong to reach the decision that it did. I want it to really move people. Just like, 'I get it!' Whether you do that by analogies or by hypotheticals or ... There are all kinds of different techniques, but to get people to say 'I get why this is so right' or 'I get why this is so wrong.' "

Kickboxing: "Justice [Ruth Bader] Ginsburg and I share a trainer. I actually am not a huge fan of exercise, all right? I find a lot of exercise kind of boring. This trainer has actually gotten me into boxing and kickboxing, which is fantastic. I love doing this."

Best gift ever: "Last week, I went down to Louisville, Kentucky, at the University of Louisville's law school, the Brandeis Law School there. The thing that the town of Louisville is most famous for is it's Muhammad Ali's city. I did some events at the law school, and then they gave me a gift at the end. It was the best gift I've ever gotten, because they went to the Muhammad Ali museum in Louisville and they got me boxing gloves. Now I have Muhammad Ali boxing gloves."

Classification

Language: ENGLISH

Publication-Type: Web Publication

Subject: SUPREME COURTS (90%); JUDGES (90%); GRADUATE & PROFESSIONAL SCHOOLS (89%); STUDENTS & STUDENT LIFE (89%); LAW SCHOOLS (89%); LAWYERS (89%); LAW COURTS & TRIBUNALS (78%); CREATIVE WRITING (78%); TEACHING & TEACHERS (78%); EMPLOYMENT SEARCH (73%); APPEALS COURTS (73%); EMPLOYMENT FAIRS (72%); EDITORIALS & OPINIONS (50%)

Organization: SUPREME COURT OF THE UNITED STATES (91%)

Industry: GRADUATE & PROFESSIONAL SCHOOLS (89%); LAW SCHOOLS (89%); LAWYERS (89%)

Person: ELENA KAGAN (79%)

Geographic: VIRGINIA, USA (79%); UNITED STATES (92%)

Load-Date: November 2, 2016