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New Assistant Dean Named

Judge Higginbotham Blasts Court's Shaw v. Reno Holding

by Kira P. Watson

The Honorable A. Leon Higginbotham, Jr. received a standing ovation after his lecture on "The Supreme Court's Anti-Political Apartheid Syndrome: A Mystique of Good Intentions with Devastating Racial Consequences".

Judge Higginbotham visited campus Thursday as part of the Robert J. Levine Distinguished Lecture series. The subject of the lecture was the United States Supreme Court's decision in Shaw v. Reno. In its 5-4 decision, the Court held that an irregularly shaped congressional district was unconstitutional. The district was designed to be 53% African-American and to increase the likelihood that an African-American could be elected.

In response to questions, Judge Higginbotham argued that the district did not cause any injury. There was no vote dilution and the number of congressmen remained the same. This differs from minority set aside cases where, arguably, a white businessman may claim diminution in income or the like because of the contract being awarded to a minority business. He also discussed Clarence Thomas and race, crime and electoral politics.

Judge Higginbotham was introduced by his former law clerk, Fordham Professor Robert J. Kaczorowski, who clerked for him in 1982-1983. Professor Kaczorowski described his former boss as a "hero" who is "self-sacrificing" and "open minded".

Judge Higginbotham retired in 1993 from the federal bench after serving 29 years. He is currently Of Counsel at Paul, Weiss, Rifkind, Wharton & Garrison, a Professor of Public Service at Harvard University and Chief Judge Emeritus for the United States Court of Appeals for the Third Circuit.

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Reminder — NO CLASSES MONDAY, OCTOBER 10 — TUESDAY, OCTOBER 11 FOLLOWS MONDAY SCHEDULE
WE’RE NOT THE BEST BECAUSE WE’RE THE BIGGEST

WE’RE THE BIGGEST BECAUSE WE’RE THE BEST

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Community Service Signing Up Volunteers

by Roslyn Myers

Fordham Law School students will be honorary more than just their legal skills this year. An overwhelming number of first, second, and third year students have signed up for this fall to volunteer as tutors, soup kitchen chefs, clothing and blood drive coordinators, home builders, and more. All as part of Fordham’s Community Service Project. The CSP is a project management team and coordinator that sends Fordham volunteers to the aid of local community service organizations in the five boroughs and beyond. The CSP directors are Lisa Cabbagestalk ’96, Vanessa Melendez ’96, Roslyn Myers ’96, and Andrew Richards ’95. The directors match volunteers with opportunities in any area of need - infants or elderly, homeless or homebound - depending on the volunteer’s interest. Most projects are well designed for a law student’s busy schedule, with a reasonable time commitment and convenient location.

The CSP, originally called the Public Service Project (PSP), was founded in 1988 by Thomas Tether ’90, John Cannistraci ’90, and Thomas Suozzi ’89. Their first foray into public service was an overnight stay at the homeless shelter for men at St. Paul’s the Apostle Church, across the street from the Lincoln Center campus. Volunteers at the shelter helped a group of approximately 14 guests settle in for the night and fixed their breakfast in the morning. “Mostly we watched TV and answered legal questions,” remembers Tom Tether of his first experiences at St. Paul’s. This contact with the city’s homeless opened his eyes to the plight of less fortunate people in the community. “Spending the night in the shelter was intense. Each group of volunteers had a different experience,” he said.

These three Good Samaritans convinced their friends to join the effort, and soon, the PSP was signing up students to visit people with AIDS and hospitalized elderly patients. Within the year, the Project branched out even further, sponsoring a trip to the Appalachian mountains of West Virginia with Habitat for Humanity.

Upcoming Projects

- September 27 - Tutor Training Session (6:00-8:00 pm in the McNally Amphitheater. Volunteers who wish to register as tutors can sign up at the informal meeting.)
- September 29 - Second Tutor Training Session (5:30-7:30 pm in Room 205.)
- October - Walkathon to Fight Alzheimer’s Disease
  - To register to walk, go to the south-west corner of Central Park’s Great Lawn at 9:00 am. If you would like to become a volunteer coordinator of the walkathon, call Libby Madden at 212/921-9070.
- October 5 - Third Tutor Training Session (6:00-8:00 pm in Room 302)
- October 11 - Annual Blood Drive
  - Sign up to give blood in the Atrium

Dear 1995 Law School Graduate:

Recognizing the financial hardships that graduating law students face, BAR/BRI Bar Review is offering need-based scholarships to help selected students defray the cost of the bar exam preparation.

BAR/BRI Bar Review will award up to $150,000 in scholarships of varying amounts up to $250 each, to be applied toward current BAR/BRI tuition, including any early enrollment discounts.

Interested applicants must submit a letter indicating their law school and describing their financial condition as well as any reasons why a scholarship is deserved (amount of loans, commitment to law, etc). The applicant must not have a commitment for full-time employment with a salary of more than $30,000 following graduation from school. The applicant further agrees to renounce the scholarship should he/she receive a commitment for full-time employment by May 15, 1995. Your letter should be no more than one single-spaced typed page and should be returned to the BAR/BRI New York office - Attention: Scholarship Committee, by October 31, 1994. Students will be notified of their scholarship award by the end of November.

These scholarships are not assignable and will only be honored for the bar review course in New York, New Jersey, Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island and Vermont. Please specify in your letter which state’s BAR/BRI bar review course you are planning to take.
January. The guiding factor in replacing Fiske, the panel cited, was the need to maintain the "appearance of independence."

Mr. Starr brings an impressive set of credentials to the investigation. He served as clerk for Chief Justice Warren Burger from 1975 to 1981, and followed with a stint as senior aide to Attorney General William French Smith. In 1983, President Reagan appointed Mr. Starr to the U.S. Circuit Court of Appeals for the District of Columbia, making him one of the Court of Appeals for the District of Columbia's chief advocate before the U.S. Supreme Court. He served as clerk for Chief Justice Rehnquist and has demonstrated a "restrained approach to the Constitution." He has argued in favor of a ban against flag burning, and supported Pennsylvania's abortion legislation in Planned Parenthood v. Casey. Yet in other cases, he has defended civil liberties. While on the Federal bench, Mr. Starr took the side of a rabbi who was disciplined for wearing a yarmulke while in the Air Force. Writing in dissent in Goldman v. Weinberger for the D.C. Circuit, he claimed that the majority decision was "vitiating the very liberties which the armed services have valiantly defended." The Supreme Court later affirmed the majority decision.

Mr. Starr's appointment as prosecutor has drawn some criticism from some Clinton Democrats who cite his Republican background. They also point out Mr. Starr's opposition to President Clinton's claim of immunity in the Paula Jones harassment case.

Yet the majority of Starr's colleagues, Republican and Democrat alike, consider him an independent and fair-minded professional who will cast a balanced eye on a difficult inquiry. "The reality and appearance of fairness are very important to the entire activity, and I intend to live up to that," Mr. Starr himself was quoted as saying that his "sole loyalty is to a fair, just, thorough, and prompt" probe. "The reality and appearance of fairness are very important to the entire activity, and I intend to live up to that.

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The Friendly Face at Career Planning

By Craig A. Rogers

It has been said that the loyalty of the Alumni of Fordham University is the envy of most other law schools. One of the people charged with ensuring that this relationship between the alumni and the university continues is Robbyn Thompson. Ms. Thompson is the law school’s alumni newsletter coordinator. The newsletter consists of job opportunities that have been submitted to the career planning center and other general information about the happenings at the law school. However, the newsletter is only part of what Ms. Thompson does for the law school.

One of her other titles is career dinners coordinator. In this capacity she assists the career planning center in putting together several career dinners for the law students. These dinners provide students with the opportunity to speak with practicing attorneys about their different fields, such as environmental law, entertainment and intellectual property law, litigation, and alternative careers for lawyers. Students learn what a particular area of practice entails, and what kinds of classes they should concentrate on to achieve certain goals.

Ms. Thompson is also the reciprocity coordinator. The duties of this position include keeping records of Fordham alumni who have visited law schools in other parts of the country, and a record of alumni from other schools who use Fordham’s facilities. Along with everyone else in the office, she lends her assistance to the often hectic early-interview week. The Advocate caught up with Robbyn in the Career Planning Center, where she graciously granted us this interview.

Tell us a little about your background. Where you were born, grew up. What did you do before coming to the law school’s career planning center and when did you start working here?

I was born in Washington D.C., then my family moved to Pisgah, Maryland before I turned one year old. When I was ten, we moved to New York City, where I’ve resided ever since. Before coming to Fordham, I was an alumni coordinator for Bishop Loughlin High School in downtown Brooklyn. This position involved handling the fund raising and writing the bi-weekly alumni newsletter. I ran a huge chocolate drive to raise money for student activities. I started working at Fordham Law’s career planning center in 1990.

How do you like working for the law school?

All jobs have their ups and downs, but I love working here at Fordham. I have worked at jobs where you walk down the halls and see the same people everyday and do not know anything about them, not even the sound of their voices because they will not even take the time to acknowledge your existence. From the time I started working at Fordham, I have received the opposite treatment. Everyone from faculty, administrators, and clerical workers, people who had no idea what my function was at the school would greet me in passing. As the years grew so did the kindness of the employees of the law school towards me. I also enjoy my job because my supervisors are fair and understanding.

You are perceived as very helpful to students here, could you describe some of the things you have done?

If a student or an alum comes into the career planning center seeking assistance, one of my responsibilities is to assist that person in whatever manner possible. If I cannot help them, then I will direct them to the person who can best assist them with their problem. If a student just needs to vent her frustrations, I will listen to her and give her my advice. I have made many friends amongst the students here at Fordham. I guess my feelings about helping people have their roots in my upbringing. As a child I was always...
From the Editors

"It's A Conspiracy, I Tell Ya..."

The baseball season's shot, and if things don't get straightened out pretty quick, hockey won't start on time, and Ian Sugarman will have to wait to see the Rangers raise their championship flag. And all this after a strike by football referees was narrowly averted. A sad time for sports fans, indeed.

As budding attorneys, we are supposed to be able to harmonize cases with different holdings on similar facts. This is done by finding that elusive "common thread" that runs through all of them. It is humbly suggested, then, that the labor problems in sports have just such a common thread, and it is this: The sports that are experiencing strife are those in which New York teams are doing well!

Think about it. Don Mattingly, all set for his first postseason play ever in the majors, and the owners cancel the playoffs. Mark Messier, all set to kiss the Cup one more time for the hometown fans, and the owners are threatening a lockout. Dave Brown, stepping out of Phil Simms' shadow and showing his stuff, and Pete Carroll, the new Jet coach with the new winning attitude, and the referees came thisclose to walking.

It should be noted that the Jets and Giants are believed to be playing over their heads, and won't go far in the playoffs. That is probably why the referees and league reached an agreement.

But what about the Knicks, you say? They were twelve minutes from winning it all last June, and there's no strike threatened in basketball! You had to bring that up, didn't you? Now the NBA is talking lockout. If ever there was an opening for a new soccer league...

Hearsay

First things first. The SBA Booze Cruise has been rescheduled for Thursday, October 6, 8:30 pm. Tickets are still $22 ($25 day of the cruise) and are available at the SBA table in the Atrium or at the SBA office... The Follies thing is still happening! Call Sarena at 721-4669 or Trey at 636-7744 for more info... While we're on things musical, Curt Schmidt still has passes for his gig at Sun Mountain Cafe, down in NYU-land (3rd St. somewhere around MacDougal) this Thursday, September 29. He can be found in the IPLJ office... The Italian-American Law Students Association is sponsoring a trip to the opera on October 28 (only $15, folks) - See Gina Bernardi, Alex Militano or Pat Mercurio.
David Bowen, The Advocate's Inquiring Photographer, sampled student opinion of the Law School's new look. He posed the question, "How would you rate the renovations on a scale of 1 to 10, and why?" The answers, from a random sampling of Fordham students, appear below.

*Photographs by David Bowen*

"They're finished? I know that they started but I didn't know that they were finished. I give phase one a 7."

Rich Marrin
2nd Year Day

"7.5. I wish that they had been done before school started. The fact that there is no cafeteria in the law school makes life difficult."

Laura Neumann
2nd Year Day
"7. In the library the lighting is still bad and in room 303 the acoustics are horrible. The most important thing however, is that they forgot to expand the entrance between the atrium and the corridor with the lockers."

Adrienne Valencia
2nd Year Day

"What they done to date looks good, but when you put it together with the classrooms, it doesn’t blend. I would rate it a 7.5"

Morris Little
2nd Year Evening
Putting A Charge into the Death Penalty: New York's First (Botched?) Electrocution

By Deborah W. Denno

Second of Two Parts

Parts of this essay were excerpted from Professor Denno's recent article, Is Electrocution an Inhumane Method of Execution? The Engineering of Death Over the Century, 35 William & Mary L. Rev. 551 (1994).

KEMMLER'S AFTERMATH: AN "AWFUL BLOTCH"

After sentencing, Kemmler was held in solitary confinement at the Auburn State Prison. As the date for his electrocution approached, "a more abject, crushed, terrorized man had never been seen among all the criminals who have met death by the law." In the meantime, the upcoming execution caught the attention of newspapers and articles criticized the proposed "experiment with death by electricity," prompting a resolution for the repeal of the Electrocution Act that later was rejected. Westinghouse sought an action to restrain the State from using its dynamos for the purposes of execution, claiming that Brown's electrocution approached, "experiment was closely clipped) and lower back.

Dr. Spitzka, a neurologist, and Dr. Shrady, who was seated in an Edison chair, got the second fixed upon the head and placed a metal electrode on the top and another on the extreme lower part, and he was wheeled, coughed, and gasped, requiring the immediate application of a second charge through the back-up head-to-calf electrode system. Death was certain after the second charge. Contrary to Edison's expectations, hand-to-hand resistance, which he had expected to be lower, was twice as high as head-to-calf. Yet even though there was a consensus that Edison's method failed and it was never used again, criticism of Edison's "polite" execution hindered Edison's further participation in electrocution technology, but left his immense status intact. Thereafter, electrocution became a popular means of capital punishment in other states, beginning with Ohio in 1896, Massachusetts in 1899, New Jersey in 1899, and New York in 1900. By 1908, electrocution became an accepted part of the criminal justice system and scientific method of inflicting the death penalty ever devised because of Continued on Next Page.
taught that if you help someone in need, help will be returned when you need it. This I believe is true because whenever I need help someone is there to help me.

One indicator of how dedicated you are to the law students is that you lived in the residence hall during early interview week and worked more than twelve hours a day to ensure that the week went smoothly. Would you say that you go beyond your job description to help others?

No, my job is to help the students and I will do whatever I can to assist them. Maybe it is considered going out of my way if I call a firm to see if they can send me a firm resume because a student has an interview with the firm, and unfortunately Career Planning does not have the firm’s resume on file. Maybe it’s beyond the call of duty if I make copies for a student because the student does not have change to make copies in the library. These are things that I feel are part of my job, so I do not feel as if I am going beyond my duties. However, there was this one instance where a student’s computer went down, he had no copies of his resume and the deadline for early interview week was that night. He had no idea how he would get his resumes in on time. When I got off of work that night I stayed in the office and retyped his resume for him, and he was able to place his resumes in the appropriate folders and participate in early interview week.

I would imagine that you receive a positive response from the students because you are so helpful. What kinds of things have people done in thanks for what you have done for them and what is the nicest thing someone has done for you?

I have received thank you letters and flowers from many students and alumni. Also, I received a box of Godiva chocolates, and have been treated to lunch a few times. The nicest thing that someone has done in appreciation of my services was when BLSA (Black Law Students Association) presented me with a plaque. I was surprised and honored. It is not difficult for me to help people who need assistance. I picked up that trait from my mother, and will carry it with me for the rest of my life. Moreover, when someone acknowledges your kindness it makes it that much more special.

Obviously, you must have a life outside of the career planning center. What are some of the things you like to do when you are not working?

In addition to being an employee of Fordham, I am also a student here. My major area of study is child psychology. In my spare time I like to write poetry, listen to music and go bowling (for fun and for sport). Additionally, I like to go to the movies, concerts and spend time with my sister, nephew and brother-in-law, who is actually like a brother to me.

Where do you see yourself in five years?

In five years, I would like to see myself with a nice house, husband and one or two healthy children, my degree and working toward owning my own business, maybe a day care center or dance school for children. How do you like the recent physical changes at Fordham?

I feel that they have done a wonderful job renovating Fordham. However, if you had asked me about the changes while the renovations were going on my response may have been a little different. During the renovations there was a lot of confusion. But now looking at the finished product, it was worth it.

What advice would you offer law students seeking jobs?

My advice to law students that are seeking work is to always have a positive attitude, strong determination, visit Career Planning at least once a week, make appointments with one of the three counselors in career planning and let each and every one know that you are looking for work.

What is the most rewarding aspect of your job?

The most rewarding aspect of my job is my paycheck (laughs): no, the most rewarding aspect of my job is when I receive a letter from an alum stating that they have obtained a job and that my assistance was truly appreciated, or when someone compliments me on the Alumni Newsletter.

Robbyn Thompson is a valuable resource for Fordham law students and alumni. Any student in need of assistance or having any questions on a Career Planning related issue, please feel free to stop by the Career Planning Center to speak with her. She brightens the days at Fordham Law, and fosters a sense of community here. She is truly an asset to our Law School.

If he kills innocent people, how will you live with yourself?

FRIENDS DON'T LET FRIENDS DRIVE DRUNK.

September 28, 1994 • The Advocate
its efficiency, quickness and painlessness." This conclusion was reached despite the Kemmler mishap and accounts of other grotesque electrocution botches.

**STATES' USE OF ELECTROCUTION TODAY**

States continued to adopt electrocution throughout the century. By 1971, twenty-three states had authorized its use. Today, only eleven of the thirty-six states that have a death penalty authorize electrocution as their sole method of execution because of the widespread adoption of lethal injection. Yet, these eleven states show no signs of changing to a different execution method. Moreover, their stance remains firm in light of increasing evidence that even a properly conducted electrocution may create "unnecessary pain," "physical violence," and "mutilation," and that there is a substantial probability that an electrocution may be botched. In many cases, these botches can be linked to a variety of unavoidable circumstances, including: ignorance about machinery and engineering, inexpert advice, limited funding for proper equipment, and negligence with respect to technical problems repeatedly experienced, but not corrected, by departments of corrections across the country.

For these and other reasons, this essay recommends constitutional scrutiny of electrocution based on Eighth Amendment standards. Although members of the Supreme Court have indicated that they are ready to engage in such an analysis, they have not yet done so. This essay also suggests that courts should not assume that lethal injection is constitutional simply because it is the method that appears most humane and that which the public favors. Courts must evaluate each method individually by established Eighth Amendment standards, not by using straw standards and comparisons.

States' efforts to bypass constitutional and public scrutiny of execution methods has existed over the course of the century, beginning with New York State's first use of electrocution in 1890 as a method of perpetuating the death penalty through allegedly humanitarian means. In an effort to placate political demands for capital punishment, states and the judiciary have avoided the Eighth Amendment scrutiny necessary to determine if methods are indeed cruel and unusual, or if a less cruel alternative is pragmatically available.

The blame for cruel executions, then, lies not with those who create the methods, like Harold Brown or Thomas Edison. Rather, the blame rests with the State and the judiciary that enforces them. Sir Thomas More, who forgave his executioner before he was beheaded, recognized this distinction. The headsman was not the source of moral error, the State was.
Side Wise

How to Keep The Simpson Case from Ruining Your Life

By Robert Cinque

You can cancel the baseball season. You can crash a plane on the White House lawn. You can even send troops to Haiti. But you still won't get people to stop talking about O.J. Never gonna happen, my friend.

Especially if you're a lawyer, a law student, a cop, a medical examiner, a reporter . . . If I had to bet my last dollar on it, I'd say a pretty good chance you have had a relative/friend/cabbie/complete stranger ask you, "All right, Mister (Miz) Law Student, you're so smart, why don't they just open the envelope?" The American people are still sufficiently fascinated by the whole affair that they seek out any sort of inside information they can get their hands on. (By the way: want to draw a crowd? Do like that model did in front of the L.A. Country Courthouse and say you saw O.J. that night. Of course you didn't, but it'll be hours before anyone thinks to check out your story, and by then you'll have been on CNN and Geraldo.)

And of course, with the trial starting up, you can count on a lot more O.J. questions. And the worst part about it is that you won't always know what side the askers are on. Do they think the evidence they've heard about on TV is so damning that a trial is a mere formality, or do they think he was set up by bookies/drug dealers/Ron Goldman's lover (male or female)/Nicole's lover (male or female)/Pick the wrong side (and admit it, you have been on both sides of this one at one point or another), and you're liable to get stuck in an interminable discussion that goes nowhere, but gets someone very angry with you for no good reason.

That's why you don't want any part of these conversations. Trust me on this. Resist the urge to pontificate on criminal procedure and rules of evidence.

Sometimes, of course, you can't just walk away. For these situations, there is one surefire way to handle this situation. Just say something innocuous, like: "The Los Angeles D.A.'s office has a real uphill battle on their hands. This is a nice, safe, non-controversial statement. Whether the asker thinks O.J. did it or not, they've heard plenty of stories about that particular office bungling high-profile cases. Even a crackerjack prosecutor would have some problems with this case, so you're not exactly going out on a limb here. The polite folk will nod their heads and change the subject. Of course, that still leaves a large segment of the population that will continue to pester you. In that case, follow it up with: "You know, the DNA test results raise more questions than it answers." Well, sure, it raises a lot of questions for lawyers, such as how many more motions can the defense team bring before they give up on trying to keep it out? And can Dershowitz and Bailey, at $1,200 an hour between them, come up with a good explanation for O.J.'s blood on the driveway? For the average person, of course, the DNA is the answer they've been waiting for. They think positive test results mean O.J. did it. But when you tell them it's not the whole show, they'll think you're about to launch into a lengthy discussion of all that procedural stuff that they fast-forward past on their VCRs.

This should prompt your inquisitors to suddenly remember any extremely urgent phone calls they have to make. Of course, there will always be a few people who have no lives, and who have been spending a lot of time conjuring up theories of the crime. For these people, I'm afraid you'll have to get tough. You must say to them: "Didn't you hear? Judge Ito imposed a gag order on the entire country! If someone hears me talking to you about the case, I could be disbarred!"