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Court Review: The Journal of the American
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American Judges Association

2019

President's Column; Vol. 55, No. 3

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President's Column

Peter Sferrazza

Welcome to the latest issue of *Court Review*. It is my honor to serve as president of the American Judges Association. We had an excellent 2019 Annual Educational Conference in Chicago. Future conferences are scheduled for Napa, Philadelphia, San Antonio, and New Orleans.

Our thanks to Justice Robert Torres for his leadership during the past year as AJA President. I appreciate his dedication and hard work. I also want to thank our past presidents, our Board, and committee members who deserve our recognition and thanks for making AJA a great organization.

In this column we commemorate Justice John Paul Stevens (April 20, 1920 – July 16, 2019). He served as an associate justice of the United States Supreme Court from 1975 until his voluntary retirement in 2010. At the time of his retirement, he was the second-oldest-serving justice in the history of the court. He wrote decisions for the court on most issues of American law, including civil liberties, death penalty, government action, and intellectual property. In cases involving presidents of the United States, he held that they were accountable under our Constitution and laws. He also authored numerous books, which discussed his judicial philosophy. Stevens was the second-oldest serving Supreme Court justice in United States history.

When John Paul Stevens was nominated to the Supreme Court by President Ford in the 1970s, he had authored a dissent that claimed it was legal to prevent married women from becoming flight attendants at United Airlines. He was considered too conservative for the Supreme Court by the liberals.

However, those who worried he would push the Supreme Court too far to the right were in for a surprise. He got off to a conservative start, but more than any modern Supreme Court Justice, Stevens embodied change. As the third-longest-serving member of the Supreme Court, he revised his own views on many of the nation's most pressing issues.

At the beginning of his Supreme Court career, he upheld the Second Amendment and the death penalty and railed against affirmative action. By the end, he had done an about-face on all three. His majority opinions decriminalized homosexual activity, paved the way for gay marriage, affirmed the legal rights of Guantanamo Bay detainees, and affirmed a woman's right to choose.

He dissented in *Bush v. Gore*, which settled the 2000 presidential election in Bush's favor, and *Citizens United v. FEC*, which prohibited the government from limiting independent political

expenditures on behalf of political campaigns. After his retirement, he called for repeal of the Second Amendment, calling its premise "a relic of the 18th century."

In 1975 I had the honor to argue a case before Justice Stevens when he was on the Seventh Circuit Court of Appeals. In *Eskra v. Morton*, 524 F.2d 9 (1975), the question presented was whether the federal Bureau of Indian Affairs could discriminate against an illegitimate Indian child when it distributed intestate property. Specifically, did *Labine v. Vincent*, 401 U.S. 532, 91 S.Ct. 1017, 28 L.Ed.2d 288 — holding the State of Louisiana could discriminate against an illegitimate child when distributing a deceased father's property — compel a like result when the distributee claimed

through a mother? Justice Stevens authored the opinion that held the Due Process Clause of the Fifth Amendment prevents the federal government from discriminating on the basis of legitimacy.

A couple of years after his ruling in the *Eskra* case Justice Stevens joined the majority in *Trimble v. Gordon*, 430 U.S. 762 (1977). The United States Supreme Court in a five-to-four decision held that Section 12 of the Illinois Probate Act, which allowed illegitimate children to inherit by intestate succession only from their mothers violated the

Equal Protection Clause of the Fourteenth Amendment. (pp. 430 U. S. 766-776). This decision effectively overruled *Labine v. Vincent*.

Justice Stevens's role in these cases demonstrated his importance in the interpretation of the Equal Protection Clause of the Constitution of the United States.

We are judges because we believe in "equal justice under the law." We believe that people should be treated equally regardless of their race, color, creed, national origin, sex, gender identity, or legitimacy of their birth.

We believe in reforming our criminal, civil, and juvenile justice system to ensure that everyone who participates in our court system is treated equally and fairly in accordance with the rule of law.

Justice Stevens exemplifies Chief Justice Roberts's statement that "We do not have Obama judges or Trump judges, Bush judges or Clinton judges. . . . What we have is an extraordinary group of dedicated judges doing their level best to do equal justice to those appearing before them. That independent judiciary is something we should all be thankful for."

Thanks for allowing me to share these thoughts with you. I look forward to seeing you in Napa.

