

Diversity Dialogue Interview with Mary Lynn Nicolas-Brewster April 9, 2020

John Caher: Welcome to Amici, News and Insights with New York courts. I'm John Caher.

Today we have a Diversity Dialogue interview with Mary Lynn Nicolas-Brewster, the new executive director of the [Franklin H. Williams Judicial Commission](#). Mary Lynn took over in November, when she was appointed by the Commission and the co-chairs, Justice Shirley Troutman and Justice Troy Webber, to succeed Joyce Y. Hartsfield. Joyce led the commission for 27 years!

Mary Lynn, thank you for joining us. Let's start at the beginning. So, who was Franklin H. Williams and what is the Franklin H. Williams Judicial Commission?

Mary Lynn Nicolas-Brewster:

Well, good afternoon, John. I want to say again thank you for inviting me to speak with you this afternoon.

Caher: Thank you for coming on.

Nicolas-Brewster: I thank you for this opportunity. I'm so excited to discuss with you who Franklin H. Williams was, and we can't begin to discuss the Commission without talking about who he was. He was a notable attorney. He was a civil rights leader. He was an ambassador to Ghana, a philanthropist, and he really made an impact not only in American society but around the globe, and the Commission is named in his honor.

Most people are likely unfamiliar with Franklin H. Williams and the impact he had or he made during the civil rights era. He was a graduate of Lincoln University. He was a graduate of Fordham Law School. He was an assistant counsel to Thurgood Marshall and served as special counsel to the NAACP during the civil rights era. So, working alongside of Thurgood Marshall, he's credited with making inroads in a number of civil rights' cases involving school desegregation, most specifically, but in other case civil rights cases as well.

Most significantly, he played a role in cases where there was a systematic exclusion of African Americans from juries, and notably he was winning cases before the Supreme Court on that issue even before *Batson vs.*

Kentucky was decided, and he was doing that effectively, he was winning those cases.

Caher: Now, what is his connection to the Commission?

Nicolas-Brewster: Well, the Commission is named for him, but significantly Chief Judge Sol Wachtler in the late '80s appointed Franklin H. Williams as chair of the New York State Judicial Commission on Minorities, and the responsibility there was to conduct research on the treatment of minorities in the court system. There was a comprehensive study that was conducted on minority participation in the courts and in the legal profession. The report was released in 1991, and that report revealed that there was a severe lack of diversity on the bench and in management positions in the court system, and there was also a widespread perception of racial bias in the courts.

To address those issues, in 1991 the Commission was established as a permanent entity in the courts. Franklin H. Williams—the Commission is named in his honor, and it was the first such Commission in the United States. That was in 1991, so next year the Commission will celebrate its 30th anniversary as a permanent entity to address issues of racial and ethnic fairness in the courts.

Caher: Now, I know that Ambassador Williams, before he would take on the chairmanship of this brand new Commission that Judge Wachtler established, insisted upon, demanded that the Commission must be independent, and so it sounds like that independence and the credibility and the gravitas that he brought to this were instrumental in doing something which was rather revolutionary at the time.

Nicolas-Brewster: Right, and the Commission has continued on that path to this day, that has been what the Commission is entrusted to do. Myself as the Executive Director, I am charged with executing the vision and the mission of the Commission, which essentially is to work with decision-makers in the New York court system and to address issues affecting employees and litigants of color and also to address issues of lack of diversity on the bench, maybe even the issues of jury diversity.

So, any issues that affect diversity in the court system, the Commission is working diligently with the court system to address those issues, and as Executive Director, I am continuing on that path. The last 30 years, that's been the goal of the Commission to really oversee and address those issues in the court system.

For the last 27 years, the Executive Director has been Joyce Hartsfield, who worked tirelessly to promote racial and ethnic fairness in the courts and to achieve justice, not only in the court system, but beyond. It's really an awesome responsibility to work on these issues and taking the baton from her and continuing to move the mission of the Commission forward.

Caher: Joyce, of course, is a legend here, but you came into this job also with a wealth of experience. You were an associate county attorney in Westchester County, a village justice, assistant solicitor general in the Attorney General's office, a senior appellate counsel with the Appellate Division, Second Department, a professor at SUNY-Rockland. How and why did you end up here as Executive Director? This is my, "How did a nice girl like you end up in a place like this?" question!

Nicolas-Brewster: Well, I'm committed to social justice. I'm passionate about that, about my career. Even at the beginning I was a pro se law clerk at the US Court of Appeals for the Second Circuit working with unrepresented litigants, and I was always seeking opportunities to work with those whose voices may not be heard. I'm really passionate about the inequitable administration of justice, and when I saw this position posted, I just thought it was a perfect position for the person I am.

I want to make an impact, I really want to work on these issues, and I know the importance of those issues in the court system. I've worked for the federal courts. I worked for the state courts, and I've seen the importance of having diversity and how that can impact the administration of justice. We need to follow in the footsteps, the legacy of the great Franklin H. Williams, so I thought it would be an honor and a privilege to continue that legacy. And it's a responsibility that I take very seriously.

Caher: I know you do. I believe you graduated from Binghamton University with degrees in literature and classical rhetoric. What inspired you to go to law school? When you were an undergrad, were you thinking of law at that point?

Nicolas-Brewster: Well, I think I've always thought of law as a way of creating social change and achieving justice. My parents, both of them were from Haiti. They immigrated to the United States in the mid-sixties and they were very hard working blue collar workers. They always instilled in me the importance of education and social justice. They knew that education was important, and they were always very supportive of my dream of becoming an attorney.

One of the things that was really impactful for me, I was born about two weeks after Martin Luther King was assassinated, and throughout my childhood that was always foremost in my mind. The impact of the Civil Rights Movement was always at the forefront. I knew the impact that a Martin Luther King, a Thurgood Marshall, had on my life, and the opportunities that I had. I just always wanted to follow in the footsteps of great advocates such as Thurgood Marshall, Franklin H. Williams, Constance Baker Motley, for example, who were moving the court system, but not only the courts but the country, towards social justice.

Even as a child I would get on a bus and I would think if this were 20 or 30 years ago, I wouldn't even be able to sit where I was now, so I knew the importance of the law. I knew the importance of the judicial branch and providing access for me as a child to education, to the resources that I needed to become successful in life. That was just really part of my upbringing.

Caher: When you talk about social justice, it seems that a lot of what was achieved really in civil rights was by the courts and through the rule of law. What I'm thinking of, for example, is *Brown v. Board of Education*, 1954. The Supreme Court did that. I don't think at that time Congress would have dared to have done something as bold as desegregated the schools. Can you talk a little bit about that, the impact of that decision and the rule of law in the way your career has progressed?

Nicolas-Brewster: Right. I believe many African Americans at that time during the Civil Rights Movement were turning to the courts, because the courts were listening and were reviewing their claims and were finding that, yes, in fact African Americans were being denied their constitutional rights. The courts were the avenue to air the claims of injustice and discrimination and inequity. So, *Brown v. Board of Education*, 1954, again, only about 12 years or so before I was born, gave us equal access to education.

I just recently was working with my son on the 1800s, with *Marbury v. Madison*, and talking about the power of judicial review, and that's an important thing that the courts can review the actions of the other branches of government to determine what is constitutional. *Brown v. Board of Education* was life altering, finding that people of color were entitled to equal education, equal access to accommodations, equal access to resources.

Like I said, early on in my childhood, I realized that without the courts really hearing and determining these claims and determining that African Americans were entitled, people of color were entitled to equal

protection under the law. I might not be here today the way I am now, so that was an important decision and the judicial branch makes a very important impact.

Caher: Now let's fast forward a little bit and let's turn to the issue of the courts and the goal of diversity. Why is it important? Why does it matter? Is it just a matter of optics and racial, gender, ethnic pride, or does it matter in some real substantive way that people can feel and see?

Nicolas-Brewster: Well, I think diversity is an essential component of the fair and equitable administration of justice. You can't underscore the importance of a diverse judiciary, because as I said earlier, the public is looking to the courts to have their claims heard and heard fairly, and the absence of judicial diversity may sometimes limit the perspectives available when you're deliberating cases and oftentimes maybe can undermine the court's ability to develop, say, a legal jurisprudence that will apply to this diverse society.

I think there's research that really demonstrates that judicial diversity enriches the decision-making process and would promote confidence by the public in the judiciary. Diversity is, it's not just optics, it really leads to greater public engagement and trust in the court system. So, I would say it's an important goal and it's important to the administration of justice.

Caher: The courts of course are designed to ensure that everyone has their day in court and is heard. I'd like to ask you if the Commission is being heard. From day one with Ambassador Williams, the Commission's purpose was really to tell the court system things that it might not want to hear. It was often the bearer of bad news, particularly at the beginning. Are you finding that the court system, since you've been here for the last several months, is willing to hear what may not be what it would prefer to hear?

Nicolas-Brewster: Well, I believe to his credit, Judge Wachtler from the beginning thought that it was important to hear the truth about what was happening in the court system. So, from the establishment of the Commission, the court system hasn't shied away from this issue. They want and consistently request information about how to address diversity or the lack of diversity on the bench or in management positions, etc. The court system is committed. We were the first Commission in the United States of America to address racial and ethnic fairness.

The New York state court system is committed to ensuring diversity and seeking ways to improve. I know there's still a long ways to go, and really there are different parts of the state where we still have a long way to go,

and we want to improve diversity in those areas. But the New York State courts hasn't shied away from the issue.

Our current co-chairs are Justice Troutman and Justice Webber, and our Commission is really engaged in making sure that we have those connections with important parties in the court system to make sure that we are addressing those issues and promoting diversity in the court system.

Caher: It sounds like the culture of independence that Ambassador Williams insisted upon and which Judge Wachtler embraced, has continued from Chief Judge Wachtler to Chief Judge Kaye to Chief Judge Lippman to Chief Judge DiFiore. Is that correct?

Nicolas-Brewster: Yes, definitely. The Commission members are meeting regularly to discuss these issues. As I stated earlier, Chief Judge DiFiore has her Excellence Initiative and diversity is an important part of that. The Commission is working hand-in-hand with the court system to ensure diversity. We are reaching out to attorneys of colors. How can we advise them of opportunities on the bench or in the court system? How can we better mentor them? How can we ensure that the employees of the court system have access to upper management positions? What programming, what training could we provide to them to assist them in seeking advancement in the court system?

We're doing that. We're finding success. We're making inroads, but we still have a long ways to go. We still remain vigilant, and we continue to work with the judicial districts and administrative judges and personnel to educate them on the importance of diversity. We want our courts to be excellent and fair, and we know that diversity is an essential component of the fair and equitable administration of justice. The commission is committed to ensuring that in the courts and that's our goal.

Caher: Mary Lynn, thank you for your time and thank you for your service to the court system and for your important work with this commission.

Nicolas-Brewster: Thank you so much for having me. Have a wonderful day.

Caher: Thank you. You too. Thanks for listening to Amici. You'll find all of our recent podcasts on the court system's website at www.nycourts.gov, and most are also on the iTunes podcast library. If you have a suggestion for an Amici podcast, please let me know. I'm John Caher, and I can be

reached (518) 453-8669 or jcaher@nycourts.gov. In the meantime, stay tuned.