

Promoting Diversity in the Courts: Justice Troy Webber and Judge Richard Rivera

John Caher: Welcome to Amici, news and insight from the New York Courts. I'm John Caher.

We're honored to start the new year with a Diversity Dialogue segment featuring the co-chairs of the Franklin H. Williams Judicial Commission, Appellate Division Justice Troy Webber, and Acting Supreme Court justice and Albany County Family Court Judge Richard Rivera.

The Williams Commission, the first court-based entity in the nation committed to racial and ethnic fairness in the courts, has led this effort for over 30 years. I think it is fair to say that the Williams Commission has never been more active, more proactive, more innovative, and more robust than it is *right now*. And I'm eager to explore the present and the future of this historic commission. But first, I'd like to get to know our guests.

Judge Rivera, Justice Webber. Thank you for coming on the program.

Your biographies are a matter of public record, but I'd like to dig a little deeper and get a sense of what makes each of you who you are and the judge that you are. So I'm going to ask you each to tell me: Where did you grow up? What was your childhood like? What were your most transformative experiences in life?

Justice Webber: Well, anybody who knows me knows that I grew up in the Bronx, 'cause I'm always talking about how I'm from the Bronx! Very proud of that! I grew up in the Bronx, the South Bronx actually, and attended Catholic schools for grammar school as well as high school. So I'm a product of the Catholic schools. I'm an only child. Unfortunately, both my parents died when I was a teenager and neither one of them actually saw me go to law school, become a lawyer or anything of that nature.

And the reason I wanted to become a lawyer was because a couple of years after my father died, I came home from school and there was a summons and complaint on the door and I didn't really know what it was, because I was maybe 13, 14 years of age and this thing is taped to the door and I'm wondering what it is. So I take it off. And my mother comes home, she came home from work, and I give it to my mother.

Apparently, my father had owned an apartment building way back when, and apparently he had not paid the monies for the oil for the building. And so they were suing him. He was deceased. So I guess they're suing

now the estate, and I did not know at the time that they should have been suing the estate and not my mother because she had nothing to do with the building. So they're suing her now. And so she had to take off time from work and at that time if she didn't work. And I saw the stress that it placed on her because she had to go to lawyers, she had to try to find legal services to represent her. It was a civil case. They didn't want to represent her, et cetera.

And so I was totally taken by this and I was like, I have to do something to help my mother and to help others in this situation. So that's what made me decide that I wanted to be a lawyer. I wanted to help individuals such as her who really didn't have the financial wherewithal to deal with these issues. And so that was why I ultimately became a lawyer.

John Caher: So, you made your career decision pretty young?

Justice Webber: I must have been 12 or 13 years of age. Plus growing up on the edge of the South Bronx at the time the Bronx was burning. On my way to school, there would be these burnt-out areas on Charlotte Street and Barretto Street, all these different places in the South Bronx. And I kept thinking, this is crazy. Again, I wanted to help people. I wanted to build the Bronx back up. I wanted to try to figure out a way to get low-income housing for individuals. So that was another reason why I wanted to become a lawyer.

John Caher: Judge Rivera, aren't you also from the Bronx?

Judge Rivera: That's correct. Born and raised in the Bronx, in the South Bronx as well, which is kind of interesting. My family is larger. There are five of us in our family, and I'm the middle child. So I grew up right smack dab in the middle. Growing up, we were pretty much a bilingual family, although I always say that Spanish was really my initial language. My parents wanted us to speak Spanish, so they spoke Spanish to us in the home and they figured that we could help each other out with the English and we would learn our English at school. They spoke what back then we called "broken English," but they were not as proficient as we became from going to school.

I remember that I was often asked to interpret whenever someone needed help with ConEdison, the electric company, or the telephone company. They would always ask me, not just for my family, but also for the friends of the family. I used to think it was annoying back then because I always had to take the phone. But I realized in a way, it sort of shaped me for who I am today.

It was really my brother's godmother that planted the seed for me to become a lawyer because she told me, "When you grow up," she told me in her Spanish, "When you grow up you're going to become a lawyer." And I remember thinking in my head, she's crazy! I wouldn't have said that to her because we were taught you respect your elders. And I would've been punished if I had said it to her, but I thought to myself, she's crazy because my idea of a lawyer was somebody dressed in a suit sitting behind a desk all day, and I thought that was a boring job I didn't want.

John Caher: And for the record, you're sitting behind a desk right now wearing a suit!

Judge Rivera: Exactly! So the last laugh was on her, but by the same token, I remember feeling like we in our community in the Bronx were not really seen fairly by law enforcement and by the court system. And so I thought I wanted to be a judge. I didn't know the connection between becoming a lawyer and becoming the judge. To me those were two separate things, but I felt that my way of being able to help bring about some fairness and justice was to become a judge.

There was one incident I remember in our neighborhood. I lived on a block where all the homes to the left and all the homes to the right had been burnt down and knocked down. And so there were these empty lots on either side of our four buildings and across the street. In fact, at a certain point in time, instead of going around the block to my junior high school, we just cut across the lot because they had cleared it all the way through to the next block. And that's how bad it was back then.

But one of the lots started being used by the police officers who were in the precinct one block over, the 42nd precinct in the Bronx. They would park their cars in the empty lot next to our building. So one of our neighbors was watching her younger sibling and the little girl fell on her glass bottle. She used to drink milk from a bottle and it was glass back then she fell on it and it fell on her chest and cut her open. The young woman that was watching her ran outside, ran toward the police officer that was guarding the cars in the lot asking for help. And he did absolutely nothing. He wouldn't even call the ambulance. And I remember thinking how unfair that these cars were more important to him than this young girl and this little girl who was dying, who actually came within an inch of piercing her heart when she fell on the bottle.

And I remember thinking, that's the unfairness, that's the injustice that I see from law enforcement. And that sort of spurred me to become a judge.

When I got to college, I wanted to go to med school, I wanted to be a doctor. I wound up choosing law school. It was the idea, as Justice Webber said, of wanting to help people, especially in our communities, because I felt that we were not being helped at all and we were painted by this brush that was negative all the time.

John Caher: That's a great story. Two great stories. Let's transition to the Franklin Williams Commission. Justice Webber, why did you get involved in that in the first place?

Justice Webber: Well, after I became a lawyer, I went to the DA's office in Manhattan for five years. And while I was there, I had numerous cases in front of an African American male judge, William Davis, and he asked if I would be his court attorney. So, he offered me the job and I became his court attorney.

He was the one who encouraged me to be a judge. Because prior to that I never even thought of becoming a judge. He encouraged me to do so. He mentored me in terms of the electoral process. He also, after I became a judge, and he actually swore me in when I was elected to the Civil Court, and he had me get involved in the Williams Commission. And so I joined the Commission. And I've been on the Commission for over 20 years.

John Caher: Oh wow. Judge Rivera, you joined much later, right?

Justice Webber: Yes, I did. Before I got elected, I was a child support magistrate here in Albany County Family Court. When I decided to run, I had thought about how I could as a judge make a difference. And I didn't know anything about the Franklin Williams Commission. I did a search on OCA for judicial commissions and that's how I came across this one. And when I read what the Commission stood for on the website, I decided I would, once I got elected, apply. And so when I got elected in 2014 and took the bench, I reached out to [then-Executive Director] Joyce Hartsfield and started the process and that's how I became a member. So, since 2015 I've better a member.

John Caher: One of the first acts of what became the Franklin H. Williams Commission was to issue a report on the racial bias in the courts. And it was rather damning. And as you well know, not quite three years ago, that same issue was revisited by the Special Advisor on the Court's, Jeh Johnson, with similar results. Were either of you surprised?

Justice Webber: No. And see, John, that's my point. When we talk about what's going on in the court system, everyone points to the Jeh Johnson report: "...It

stated in the Johnson report...in the Johnson report we found out..." These are things that the Commission had recognized and focused on for years. We just celebrated our 30th anniversary last year. We knew this and we were trying to do things to fight these things.

Jeh Johnson, who I absolutely love, did a great job. He only had six months to put this report together. But I do have some issues with the fact that everyone talks about "the Johnson report." As you just mentioned, Franklin Williams rendered the same report, unfortunately, in 1991. When the Johnson report came out, I used to say, if you just tear the first page off of Franklin Williams's report, you could just slap on Jeh Johnson and it would be the same report.

But I will say that what happened with that report by Secretary Johnson is that it helped us. It gave us greater visibility and as a result of it, we're able to hire staff and we're able to do more things. And so it did help to focus on the issues. And I'll give you an example.

Months before the Chief Judge asked Secretary Johnson to write the report, we at the Williams Commission wrote a letter to the Chief Judge stating that there should be mandatory implicit bias training for all court personnel including judges, right? Nothing happened, no response to our letter. We followed up, no response to our letter. Secretary Johnson takes over, we speak to him, we have conversations with him. I say to him, "One of the things I think we need, and you should state in your report, is mandatory implicit bias training." He states in the report there should be mandatory implicit bias training. And, what do you know, now we have mandatory implicit bias training.

So he helped us in that and the report helped us in that. So I'm thankful for that, but I just wish folks would stop just giving him all the credit. And it's not that we want the credit as well, it's just that these are things that we've been doing and this has existed, unfortunately, for all these years.

John Caher: Would you agree, Judge Rivera, that the Johnson report was not a revelation?

Judge Rivera: I agree wholeheartedly. I wasn't surprised at all. As you heard, I was a member of the Commission since 2015 and Justice Webber had already been even prior to that. So it was work that we were already doing based on the Williams Commission. And so it wasn't shocking to me that nothing had changed. We're judges in the court system. So, we live it.

As you know, I sit up here in Albany County, which is in the Third Judicial District. And when I got elected in 2014, there had been no other judges of color at the county level. I was the first. And up until January 1st of this year, I remained the only Hispanic judge in the entire judicial district. And so we were living it. And that's just at the judge's level. The staff situation was the same. When I was a child support magistrate and I got appointed in 2010, I again was the first to that position, and when I left, I wasn't replaced by a person of color. Now we do have one more, but that's been what we have been living. So it was not new to us. We were not shocked at all. I wasn't shocked.

John Caher: To take it further. I believe in the last 200 years in the Third Department, a 28-county region, there's been a grand total of one judge of color ever elected to the Supreme Court?

Judge Rivera: Yes. And that was Justice [Christina] Ryba. Well, now that number has gone up. We now have a second African American judge from our district, but they did appoint two judges of color to the Third Department finally with Justice Aarons and Justice McShan. But they were both from New York City. In fact, I think both are from the Bronx.

Justice Webber: Yes.

Judge Rivera: So because there were no attorneys here and no judges here at the Supreme Court level that were elected, they brought people from the Bronx. And so you're correct, but it took that many years for that to happen.

John Caher: There seems to be a correlation between the issuance of the Jeh Johnson report and what I would see as a greatly enhanced Franklin Williams Commission. It seems to me you're much better staffed, much better funded than you've ever been before, and you're taken on all kinds of activities. It seems like you are always coming out with a report, doing an event, having a conference. Is that fair to say?

Justice Webber: Definitely. And that's why I say Secretary Johnson in the report gave greater visibility to the issues, and therefore OCA realized that they had to dedicate more resources to the Williams Commission. And not only the Williams Commission, remember, they also gave greater resources to the Office of Diversity and Inclusion and also the Inspector General's office as well, greater visibility in terms of individuals who had issues, complaints, et cetera.

So yes, the Johnson Report certainly did that. They certainly helped us in terms of staff. So we used to just have two staff members, Joyce [Hartsfield] and Karlene [Dennis]. And so now we have seven, which is very helpful. And we have one individual who is in Albany. We have fellows up upstate as well. So yes, the Johnson report certainly helped us in terms of obtaining additional resources from OCA.

Judge Rivera: I echo that. It's bringing more visibility to the Commission. It did allow for us to have more staff, and that was part of what was recommended, that we be given more credibility. We're already here, this is the work we're doing. We're tasked with continued work. And so we needed the support and they have given that to us.

John Caher: What is that continued work? What's next on the agenda? What's the plan, say, for 2023 and beyond?

Justice Webber: I don't think we have enough time, John! We have so many things that we have planned. You may know that we rendered the Family Court report. We're working hard in terms of increasing the number of Family Court judges, especially upstate, which is an interesting issue. And I don't know how we tackle that issue. And increasing the resources to Family Court.

We're basically looking at those courts that are used predominantly by individuals of color. We started off with Family Court, we're also looking at Criminal Court and we will be looking at Housing Court as well in terms of, again, just increased resources to those courts.

Judge Rivera: We're also going to continue a lot of what we have been doing, like our fellowship program. We were granted an additional fellow. We started out with three, we now have four. Our hope is to increase that number again. Continuing our mentorship program with attorneys of color who want to become judges, pairing them up with existing sitting judges throughout the state to assist with that. We continue to meet with our AJs. Once we have another Chief Judge, we plan to meet with the Chief Judge and have a conversation on with that person. So a lot of what we're doing now, we're going to continue, and expand.

As you know, we're working with the video, the Franklin Williams video, and doing programs with the young people so that we can try to reach them at a younger age. We've been working with the Careers in the Courts program so that high schoolers and middle schoolers can find out about a career in the court system. Our effort obviously is not just to

increase the number of judges of color, but also attorneys of color and non-judicial personnel.

Justice Webber: Right. And we also have the professional development program, which I think you know about. That one has been very, very helpful. And in that program we have spoken to individuals who wish to be promoted and we've assisted them in terms of the application process, the resume process as well, and the interview process. And we've gotten tremendous feedback and we've gotten a number of individuals who were promoted and who had not been promoted in the past and now were promoted after they took part in the program, and they attribute the promotion in part to their participation in the program.

We also have a pipeline program that we've been very interested in continuing. I just came back from a conference in San Diego with the Association of American Law Schools wherein we talk about how to increase the number of individuals of color who go to law school, attend law school, but also *stay* in law school. Because once you get there, that's all well and good, but you have to remain there and also pass the bar and become lawyers. So those are other programs that we are in the process of continuing and also trying to beef up as much as possible.

Judge Rivera: I also want to point out, John, briefly, the town hall meetings. As you know, we've been having town hall meetings, and we've had five so far. We plan to continue those because it gives the employees of the court system an opportunity to voice their concerns for us to address them throughout the court system. And so we've gotten a lot of feedback on those as well. And we plan to continue doing that.

Justice Webber: And that's an excellent point, Judge Rivera, because that's where the professional development idea came from. It was during a town hall, when one of the participants, one of the questioners—I don't remember whether he was a clerk or a court officer—stated, "Well, you know what, I've applied for all these positions, but they've never told me why I didn't receive the position, but I've applied like 25 times or something of that nature. And there's never been any feedback." So we were thinking, well, that's interesting. You apply for these positions, you don't get any feedback. So that's where the idea came up.

John Caher: What an exciting time for the Commission. I know Franklin Williams would be proud of you, and I think all of us in the court system are very grateful for what you're doing. So thank you for your work and thank you for coming on the program.

Justice Webber: Thank you, John.

Judge Rivera: Thank you, John.