

SUPREME COURT OF THE UNITED STATES

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JUSTICE RUTH BADER GINSBURG MEMORIAL

SPECIAL SESSION OF THE SUPREME COURT

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SUPREME COURT OF THE UNITED STATES
JUSTICE RUTH BADER GINSBURG MEMORIAL

SPECIAL SESSION OF THE SUPREME COURT

3:00 p.m.

Friday, March 17, 2023

Courtroom
Supreme Court of the United States
Washington, D.C.

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P R O C E E D I N G S

(3:00 p.m.)

CHIEF JUSTICE ROBERTS: The Court is in special session this afternoon to receive the resolutions of the Bar of the Supreme Court in tribute to Justice Ruth Bader Ginsburg.

The Court recognizes the Solicitor General.

PRESENTATION OF RESOLUTIONS

HONORABLE ELIZABETH B. PRELOGAR,
SOLICITOR GENERAL OF THE UNITED STATES

GENERAL PRELOGAR: Mr. Chief Justice, and may it please the Court:

At a meeting today of the Bar of this Court, resolutions memorializing our deep respect and affection for Justice Ginsburg were adopted unanimously.

Today, the Bar of this Court gathers to pay tribute to Justice Ginsburg, a path-marking jurist who served the nation for 27 years as an Associate Justice of this Court.

Justice Ginsburg dedicated her life to making real the Constitution's promise of equality under the law and the framers' aspiration that we build a more perfect Union.

1 She helped transform the landscape of
2 this country, fighting discrimination and
3 forging opportunities for all persons to achieve
4 their potential. All told, she authored over
5 1100 opinions, each a model of her
6 characteristic efficiency, clarity, and decency.

7 The Torah's command "justice, justice
8 thou shalt pursue" graced the wall of her
9 chambers and inspired her in everything she did.

10 Joan Ruth Bader was born in Brooklyn
11 in 1933, the daughter and granddaughter of
12 immigrants. From early on, Justice Ginsburg was
13 heavily influenced by her mother, who she said
14 taught her two lessons: In Justice Ginsburg's
15 words, one was to be a lady, and that meant
16 conduct yourself civilly, don't let emotions
17 like envy or anger get in your way. And the
18 other was to be independent, which was an
19 unusual message for mothers of that time to be
20 giving their daughters.

21 At Cornell University, Justice
22 Ginsburg studied government under Robert
23 Cushman, who inspired her with stories of
24 lawyers standing up for the First Amendment
25 during the McCarthy era.

1 It was also at Cornell on a blind date
2 in 1950 that she met Martin Ginsburg. The
3 Justice liked to say that Marty was the first
4 boy I ever dated who cared I had a brain.

5 What followed was a marriage for the
6 ages, one that modeled for the world her vision
7 of gender equality. The Ginsburgs moved to
8 Oklahoma, where Marty served in the Army and the
9 couple welcomed a daughter, Jane. In 1956, the
10 couple moved to Cambridge for Marty to continue
11 and the Justice to begin studies at Harvard Law
12 School.

13 One of nine women in a class of over
14 500, Justice Ginsburg earned top grades and was
15 selected for the Harvard Law Review. During her
16 second year, Marty was diagnosed with cancer.
17 With her superhuman work ethic, the Justice
18 managed to support Marty, care for Jane, keep up
19 her own studies, and coordinate Marty's
20 classmates to take notes for him, which she
21 typed every night.

22 After Marty recovered, the Ginsburgs
23 moved to New York for his new job. Justice
24 Ginsburg transferred to Columbia Law School and
25 graduated tied for first in her class, but she

1 struggled to find a job because, as she
2 recounted, she had three strikes against her:
3 She was a woman, a mother, and Jewish.

4 Her mentor, Professor Gerald Gunther,
5 finally secured her a clerkship by promising to
6 provide a male replacement should Justice
7 Ginsburg not work out. Judge Edmund Palmieri
8 later referred to the Justice as one of his
9 all-time best clerks.

10 In 1963, Justice Ginsburg joined the
11 Rutgers faculty. She was paid less than her
12 male counterparts because, as the dean
13 explained, she had a husband with a good job.
14 Teaching on a year-to-year contract, Justice
15 Ginsburg hid her pregnancy with her son, James,
16 until she had the next year's contract in hand.

17 In 1972, Columbia hired Justice
18 Ginsburg to become its first tenured female
19 faculty member. That same year, the Justice
20 helped found the ACLU's Women's Rights Project.
21 As head of the project, she argued six gender
22 discrimination cases in this Court.

23 In the first, she represented an Air
24 Force officer challenging the military's policy
25 of automatically providing certain benefits to

1 military wives but not husbands. Her argument
2 was a master class, and her client prevailed 8
3 to 1.

4 Throughout the '70s, Justice Ginsburg
5 successfully litigated cases promoting gender
6 equality, ranging from the routine exemption of
7 women from jury pools to the denial of Social
8 Security benefits to male surviving spouses.

9 In 1980, President Carter nominated
10 Justice Ginsburg to the D.C. Circuit, and in
11 1993, President Clinton nominated her to this
12 Court.

13 At her confirmation hearing, the
14 Justice proudly introduced herself as the child
15 of immigrants. She reflected, "What has become
16 of me could happen only in America. Like so
17 many others, I owe so much to the entry this
18 nation afforded to people yearning to breathe
19 free." The Senate confirmed her by a vote of 96
20 to 3.

21 Over the next 27 years, Justice
22 Ginsburg left an indelible mark on the law in
23 countless ways, too many to list here. Central
24 to her legacy are the opinions in which she
25 championed the idea that all persons should be

1 afforded what she called equal citizenship
2 stature under the Constitution.

3 For example, in her landmark opinion
4 for the Court in United States versus Virginia,
5 she wrote that the Constitution prohibits
6 relying on generalizations to deny any person
7 equal opportunity to aspire, achieve,
8 participate in, and contribute to society based
9 on their individual talents and capacities.

10 She consistently voted to bolster the
11 democratic process, defending, in her words, the
12 core principle that voters should choose their
13 representatives, not the other way around.

14 She urged the Court to reckon with
15 real-world power dynamics, vividly describing a
16 humiliating strip search of a 13-year-old
17 schoolgirl. And she served as the Court's
18 resident expert on matters of procedure,
19 emphasizing systemic integrity, fair access to
20 the courts, and the need for judicial redress
21 for government wrongdoing, with fairness always
22 as the cornerstone.

23 Justice Ginsburg was a lifelong
24 optimist. Some of that optimism stemmed from
25 her belief that people of different ideological

1 views could share the same faith in the
2 Constitution and this Court's role in
3 safeguarding its principles.

4 Her famous friendship with Justice
5 Scalia is a perfect example. She embraced their
6 shared reverence for the Constitution and this
7 Court.

8 Justice Ginsburg will be remembered as
9 one of our country's great heroes. Her
10 commitment to truth, justice, and equality
11 changed the course of American history and
12 inspired millions across the world.

13 Those of us who were lucky enough to
14 know the Justice will remember her brilliance,
15 her love for Marty and her family, her quiet
16 humor, her unparalleled work ethic, her tireless
17 attention to getting every detail just right,
18 her courage in battling cancer, her great love
19 of this country, and, above all, her abiding
20 goodness.

21 And I will remember the extraordinary
22 year I spent as a law clerk in her chambers
23 witnessing up close her grace, her devotion to
24 the law, and her unyielding spirit.

25 Gathered here together looking back at

1 her life, the members of the Bar of the Supreme
2 Court express our admiration and respect for the
3 late Justice Ruth Bader Ginsburg, our loss upon
4 her death, our appreciation for her
5 contributions to the law and the nation, and our
6 gratitude for her example of a life well lived.

7 On behalf of the Supreme Court Bar, it
8 is my privilege to present to the Court the
9 resolutions adopted today so that the Attorney
10 General may move their inscription on the
11 Court's permanent record.

12 CHIEF JUSTICE ROBERTS: Thank you,
13 General Prelogar.

14 The Court recognizes the Attorney
15 General of the United States.

16 REQUEST TO ACCEPT RESOLUTIONS

17 HONORABLE MERRICK B. GARLAND,

18 ATTORNEY GENERAL OF THE UNITED STATES

19 GENERAL GARLAND: Mr. Chief Justice,
20 and may it please the Court:

21 The Bar of the Court met today to
22 honor the life and legacy of Ruth Bader
23 Ginsburg, Associate Justice of the Supreme Court
24 from 1993 to 2020.

25 Justice Ginsburg was brilliant,

1 courageous, and principled. She believed deeply
2 in the capacity of the law to fulfill our
3 country's fundamental promise of equality.

4 And she believed deeply in our
5 Constitution. As she wrote in her opinion for
6 the Court in *United States versus Virginia*, she
7 believed in its story of the extension of
8 constitutional rights and protections to people
9 once ignored or excluded.

10 I first caught a glimpse of Ruth Bader
11 Ginsburg in this courtroom in 1978 when she came
12 here to argue *Duren versus Missouri*. The
13 Court's law clerks were crowded into the wings
14 of the courtroom to hear her. Our Justices had
15 told us that she was the best advocate we would
16 hear that term, and she did not disappoint. She
17 won the case 8 to 1.

18 As it turned out, that would be the
19 last argument she made before the Court. Two
20 years later, she was appointed to the D.C.
21 Circuit, and 13 years after that, she was
22 appointed to the Supreme Court.

23 But it had been an amazing run as a
24 litigator. Like Thurgood Marshall on behalf of
25 equal rights for black Americans, Ruth Bader

1 Ginsburg was a chief tactician in the campaign
2 for equal rights for women. Beginning in 1971,
3 she filed more than 20 Supreme Court briefs
4 challenging legislative distinctions between the
5 sexes, including distinctions that disadvantaged
6 men, in order to establish the principle of
7 equal treatment. She argued six cases before
8 this Court, losing only one.

9 Just to describe some of those cases
10 is to recall how different the world was then.
11 In Duren, the Court struck down a Missouri law
12 that made jury duty optional for women and only
13 for women. In Weinberger versus Wiesenfeld, the
14 Court struck down a provision that permitted a
15 deceased man's Social Security benefits to be
16 paid to his widow but did not permit a deceased
17 woman's benefits to be paid to her widower.
18 And, in one of the first cases she argued and
19 she briefed, Reed versus Reed, the Court
20 unanimously struck down a state probate statute
21 that said "males must be preferred to females"
22 in appointing estate administrators.

23 But, if we think the 1970s were
24 different, you should hear just a snippet of
25 Justice Ginsburg's own description of what it

1 was like in 1956 when she was one of only nine
2 women in a Harvard Law School class of more than
3 500. "Women were not admitted to faculty club
4 dining tables. One could invite one's father
5 but not one's wife or mother to the Law Review
6 banquet. And the old periodical room at Lamont
7 Library was closed to women."

8 In 1958, the Justice's husband, Marty,
9 whom all of us who knew him loved, graduated
10 from Harvard a year ahead of the Justice and
11 received a job offer in New York. Justice
12 Ginsburg asked the then dean to let her finish
13 the requirements for her Harvard degree at
14 Columbia. Famously, and to Harvard's
15 everlasting regret, the dean denied her request.
16 So the Justice transferred to Columbia anyway,
17 served as an editor for the Law Review, and tied
18 for first in her class.

19 But, in those days, even that was not
20 enough. A Supreme Court Justice turned her down
21 for a clerkship, telling the dean of the
22 Columbia Law School that he "just wasn't ready
23 to hire a woman." Nor could she find a job in a
24 corporate law firm. But, as the Justice noted
25 in 2009, that wasn't all bad. If she had gotten

1 the job, she said, she would have been a retired
2 law firm partner instead of a Justice of the
3 Supreme Court of the United States.

4 I do not need to tell anyone in this
5 room how different the world would have been had
6 that happened. During the Justice's 27 years on
7 the Court, she influenced every area of the law,
8 from issues that made the headlines, like equal
9 justice for women, to highly complex questions
10 of civil procedure without which our court
11 system could not function.

12 Everyone knows what an intellectual
13 force she was on the Court. Every lawyer who
14 appeared before her knows how incisive her
15 questioning was at oral argument, and everyone
16 who reads her concise and elegant opinions can
17 see her commitment to, in her own words, get it
18 right and keep it tight.

19 Justice Ginsburg was not only one of
20 the country's brightest legal minds, she was
21 also a beacon of civility and collegiality. She
22 revered the role of the federal judiciary and
23 this Court in particular in upholding the rule
24 of law.

25 She understood the necessity of an

1 independent judiciary to our democracy.
2 Essential to the rule of law in any land, she
3 said, is an independent judiciary, judges not
4 under the thumb of other branches of government
5 and therefore to administer -- equipped to
6 administer the law impartially. She strived to
7 be that kind of judge, and she succeeded.

8 Justice Ginsburg was also an
9 enormously caring person. In her personal life,
10 she supported Marty during his battle with
11 cancer and then fought her own. And in her
12 professional life, she was an extraordinary
13 mentor to her law clerks. Justice Ginsburg --
14 Ginsburg's impact on this Court and on our
15 country will be felt for generations to come.
16 She is and always will be deeply missed.

17 May her memory be a blessing.

18 Mr. Chief Justice, on behalf of the
19 lawyers of this nation and, in particular, the
20 members of this Court's Bar, I respectfully
21 request that the resolutions presented to you in
22 honor of Ruth Bader Ginsburg be accepted by the
23 Court and that, together with the chronicle of
24 these proceedings, they be ordered kept for all
25 time in the records of this Court.

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RESPONSE

THE HONORABLE JOHN G. ROBERTS, JR.,
CHIEF JUSTICE OF THE UNITED STATES

CHIEF JUSTICE ROBERTS: Your motion is granted, and the resolutions and chronicle will be made part of the permanent record of the Court.

Thank you, General Garland and General Prelogar, for your presentations in memory of Justice Ruth Bader Ginsburg.

We also extend our appreciation to Judge John Owens and Amanda Tyler and members of the Committee on Resolutions and to Co-Chairs Judge Paul Watford and Hajin Kim and members of the Arrangements Committee.

This Court's tradition of a Bar memorial dates back nearly two centuries to Chief Justice John Marshall's passing in 1835. Today is the first time a woman serving as Solicitor General of the United States, a former law clerk to Justice Ginsburg no less, is presenting memorial resolutions to the Court.

Today is the first time that four seats on the bench are held by women as we receive those resolutions.

1 As far as tributes to Justice Ginsburg
2 go, these facts are a good place to start.

3 Although this memorial tradition runs
4 to Chief Justice John Marshall, a Bar memorial
5 for Justice Ginsburg harkens back in other ways
6 to the one held in this building for Justice --
7 Justice Thurgood Marshall 30 years ago. Perhaps
8 in a league with him and no one else, Ruth Bader
9 Ginsburg had already used the law to change our
10 country profoundly for the better as an advocate
11 prior to becoming a member of this Court.

12 The Solicitor General mentioned
13 Justice Ginsburg's first appearance at the
14 lectern was 50 years ago in *Frontiero v.*
15 *Richardson*. Her 10-minute amicus allotment was
16 uninterrupted by the Justices, maybe because her
17 dear friend, Antonin Scalia, was some years from
18 joining the Court.

19 (Laughter.)

20 CHIEF JUSTICE ROBERTS: Instead of a
21 lawyer appearing before this Court and others,
22 Justice Ginsburg might have preferred a career
23 as an opera star. When asked, she did not
24 disavow such an interest, simply noting that
25 there was the catch that she could not sing.

1 (Laughter.)

2 CHIEF JUSTICE ROBERTS: So she instead
3 served as the impresaria of the Court's
4 musicales, a tradition she presided over
5 beginning in 2002, attracting renowned artists
6 to perform in the East Conference Room, giving
7 us all respite and helping to bring us together.

8 But this courtroom was her stage. In
9 the six cases she argued here, of which she won
10 five, she articulated an enduring vision of the
11 equality of women and men as a constitutional
12 principle.

13 In 1980, she was appointed to the U.S.
14 Court of Appeals for the D.C. Circuit. She
15 wrote more than 700 opinions as a circuit judge,
16 earning a reputation as a careful, prudent
17 jurist.

18 In 1993, President William Clinton
19 appointed then Judge Ginsburg to be the 107th
20 member of this Court. The transition was
21 seamless. Justice Ginsburg's first opinion of
22 the Court issued on December 13, 1993, a mere
23 two months and one day after argument in a
24 complicated retirement benefits case. She
25 earned her reputation for speed straight out of

1 the gate.

2 In the October term 2007, Justice
3 Ginsburg and I tied, each of us releasing an
4 opinion on December 4. Coming off the bench, I
5 made sure Ruth recognized that fact.

6 (Laughter.)

7 CHIEF JUSTICE ROBERTS: But she shook
8 her said and said no. Under our usual protocol,
9 she pointed out, she had announced her opinion
10 from the bench first.

11 (Laughter.)

12 CHIEF JUSTICE ROBERTS: So she
13 remained the champion.

14 Justice Ginsburg was rightly proud
15 that she never slowed down and never sacrificed
16 precision, clarity, or technical excellence.
17 She was our resident expert in civil procedure
18 and federal courts, which was just fine with the
19 rest of us.

20 (Laughter.)

21 CHIEF JUSTICE ROBERTS: Justice
22 Ginsburg's encyclopedic knowledge of all things
23 opera was not matched with much familiarity
24 concerning more plebeian pastimes. At one
25 musicale, we surprised her by having her meet

1 Cal Ripken, the Iron Woman meets the Iron Man,
2 two courageous leaders who worked through any
3 challenge without missing a step.

4 The audience thought it was great.
5 The point was, I think, lost on the Justice, who
6 did, however, find it interesting that Ripken
7 was married to a Maryland state judge.

8 (Laughter.)

9 CHIEF JUSTICE ROBERTS: Now, to be
10 fair, I'm sure the Justice was surprised, if not
11 shocked, that I did not recognize many of the
12 opera stars she would discuss at lunch.

13 Justice Ginsburg inspired artists and
14 young women around the world, to be sure, but
15 justices and lawyers in our system as well.
16 That aspect of her influence was purposeful,
17 guided by a belief that the adversarial court
18 system operates in service of the rule of law
19 that helps people who disagree to live together.

20 Fight for the things that you care
21 about, she would say, but do it in a way that
22 will lead others to join you. Her voice was
23 soft, and the cadence of her speech was
24 measured. You had to listen to her carefully,
25 which I think was the point.

1 Justice Ginsburg and her remarkable
2 husband, Martin Ginsburg, enlivened the Court's
3 family. He was not only a distinguished
4 Georgetown law professor and outstanding
5 conversationalist but also a master baker who
6 sent cakes for her colleagues' birthdays.

7 She would craft direct, efficient
8 written greetings, such as "It's your birthday,
9 so Marty baked a cake."

10 (Laughter.)

11 CHIEF JUSTICE ROBERTS: Now, as time
12 wore on, Justice Ginsburg somehow developed a
13 new public persona, the Notorious RBG, a rock
14 star, a cultural icon. Little girls started
15 showing up on Halloween dressed as RBG. It was
16 an easy costume: any kind of black robe,
17 black-rimmed glasses, and a white jabot or other
18 style of collar. RBG products flooded the
19 market. My favorite was a small candy tin with
20 Ruth's picture on it beneath the word "Judge
21 Mints."

22 (Laughter.)

23 CHIEF JUSTICE ROBERTS: Now, to be
24 clear, Ruth absolutely loved every minute of it.

25 (Laughter.)

1 CHIEF JUSTICE ROBERTS: On the bench,
2 she was often in dissent, but it would be a
3 mistake to think of her as anything other than
4 relentlessly optimistic in the long run.

5 She happily cited our nation's motto,
6 E pluribus unum, out of many, one. It is the
7 main aspiration, she would say. It was her hope
8 for our country and our world.

9 Asked just a few years before her
10 passing how she would like to be remembered, she
11 said, someone who used whatever talent she had
12 to do her work to the very best of her ability
13 and to help repair tears in our society to make
14 things a little better through the use of
15 whatever ability she has.

16 Justice Ginsburg was a woman of
17 conviction, courage, and quiet compassion.
18 Small in stature, she stands as a giant in the
19 history of this Court. Soft in speech, her
20 voice will ring out from the pages of the U.S.
21 reports for generations to come.

22 (Whereupon, at 3:22 p.m., the Special
23 Session in the above-entitled matter adjourned.)

24
25

Official - Subject to Final Review

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| <p>1</p> <p>1 [2] 7:3 11:17 10 [1] 2:8 10-minute [1] 17:15 107th [1] 18:19 1100 [1] 4:5 13 [2] 11:21 18:22 13-year-old [1] 8:16 16 [1] 2:11 17 [1] 1:10 1835 [1] 16:18 1933 [1] 4:11 1950 [1] 5:2 1956 [2] 5:9 13:1 1958 [1] 13:8 1963 [1] 6:10 1970s [1] 12:23 1971 [1] 12:2 1972 [1] 6:17 1978 [1] 11:11 1980 [2] 7:9 18:13 1993 [4] 7:11 10:24 18:18, 22</p> <hr/> <p>2</p> <p>20 [1] 12:3 2002 [1] 18:5 2007 [1] 19:2 2009 [1] 13:25 2020 [1] 10:24 2023 [1] 1:10 27 [3] 3:20 7:21 14:6</p> <hr/> <p>3</p> <p>3 [2] 2:5 7:20 3:00 [2] 1:9 3:2 3:22 [1] 22:22 30 [1] 17:7</p> <hr/> <p>4</p> <p>4 [1] 19:4</p> <hr/> <p>5</p> <p>50 [1] 17:14 500 [2] 5:14 13:3</p> <hr/> <p>7</p> <p>700 [1] 18:15 70s [1] 7:4</p> <hr/> <p>8</p> <p>8 [2] 7:2 11:17</p> <hr/> <p>9</p> <p>96 [1] 7:19</p> <hr/> <p>A</p> <p>abiding [1] 9:19 ability [2] 22:12,15 above [1] 9:19 above-entitled [1] 22:23 absolutely [1] 21:24 ACCEPT [2] 2:6 10:16 accepted [1] 15:22</p> | <p>access [1] 8:19 achieve [2] 4:3 8:7 ACLU's [1] 6:20 across [1] 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