

Acceptance Speech For Legal Aid's Servant of Justice Award

I want to thank everyone for coming to honor Barbara McDowell:

Her family from California, Dr. Hayley Coker and Hayley's aunt Janet McCullough who is Barbara's first cousin; Barbara's classmates from George Washington and Yale Law School; Barbara's colleagues from Jones Day, the Solicitor General's office, and Legal Aid, and the board members of Barbara's foundation: Jeff Lamkin, Sarah Wilson, Hayley Coker, Debbie Chiumento, and Sally Gordon.

This month as we know is the 50th anniversary of the passage of the Civil Rights Act of 1964 that went into effect in July of 1965. President Johnson a few days after the assassination of John Kennedy said in a speech to the Joint Houses of Congress that "he would give everything that he had not to be standing here today." I too feel that way and would give everything and more to have Barbara be here to accept this award, which she would have mightily protested receiving.

The passage of the Civil Rights Act would affect Barbara and me profoundly. In June of 1965 my dad died and when I returned to Columbia that Fall I needed to find a job to help pay my expenses and tuition so I went to the Columbia Job Placement office for assistance. I was sent that September to a private school on the upper Westside to apply for a position to help with after school activities. I remember being interviewed on the steps of the school and being asked what was my religion. I answered proudly Jewish. I was told that the school did not hire Jews. I knew from all the publicity about the passage of the Civil Rights Act that this was wrong. I went back to the Columbia placement office and told them what happened, that it was wrong, and that it was illegal. I was told "Not to make a fuss and the school would find me another job." I don't know, even to this day, whether I was madder about the discrimination or being told not to make a fuss.

I shared that story with Barbara when we met on our first date and how it stayed with me and led me to go to law school and thereafter to work in the Justice Department Civil Rights Division. Our desire to address social injustice was a common bond between us. Thereafter when I went into private practice Barbara would

joke that Jerry was making the money so she could do the “good.” I now have found out that, in trying to do both, the doing of “good” is much harder.

As President Kennedy’s death led in good part to the passage of the Civil Rights Act, Barbara’s death led to the creation of her Foundation. With the support of my law firm, Drinker Biddle, the Foundation has had a dual mission. The Foundation makes grants to pro bono organizations in support of their social justice litigation. To date in the last four years the Foundation has made 25 grants totaling close to \$200,000. The Foundation also with the assistance of many lawyers at Drinker Biddle has brought several high impact cases working with pro bono organizations, including one with Legal Aid that resulted in significant amounts of additional food stamps to persons in the District of Columbia. Very recently the Foundation working with the ABA Death Penalty Project represented 16 death row inmates in Mississippi in an effort to get them post-conviction collateral review. That litigation was able to start that post-conviction review process for nine of them including getting a new trial for one of them. Robin Maher of the ABA Death Penalty Project who worked so closely with us under the auspices of the Foundation is here tonight.

Barbara had always had the mind to do public service. She ran McGovern’s campaign in Fresno County when she was 23. That county was one of the few that McGovern won. She worked for Senator Cranston as a press aide while going to GW. Ultimately, Barbara went to the Solicitor General’s office from a partnership at Jones Day to argue Supreme Court cases for six years where she argued 19 cases, including two on the same day. Barbara’s favorite story about her time in the SG’s office was when she had to call a lawyer in Fresno about sharing argument time in a case. It turned out that Barbara had worked for this lawyer as a secretary when she was in college. When Barbara called him, she reminded him who she was and he said that it was wonderful that she made it to DC to work as a secretary in the SG’s office. He got five minutes of argument time.

Barbara’s time in the SG’s office and at Legal Aid led to her receiving the Rex Lee award for excellence in appellate advocacy in the public sector. Many Solicitor Generals had received this award in the past. Rex Lee was a former Solicitor General and the award named for him was given by Brigham Young University

where he had been the Dean of the Law School. Rex also died of cancer. Chief Justice Roberts presented the award where at the ceremony Barbara was recognized as one of the finest appellate advocates of her generation.

Very few people at the time knew then how ill Barbara was. In her acceptance speech for the award Barbara said:

My current career path grew out of my church's work with young people and families in an inner area of the District. As I learned of the difficulties that poor people encountered in their contacts with landlords, government agencies, and the local courts, I began to think about how I could use my skills as an appellate lawyer to their benefit. Happily, the Legal Aid Society was thinking along the same lines: to start an appellate project with the goal of shaping the law in DC affecting people in poverty.

This required both of us and especially Legal Aid to make somewhat a leap of faith. I would have to be able to identify the sorts of cases to take to the local court of appeals. I would need to be able to relate to a very different client community—real people facing many life challenges, only one of which we might be able to address. I would need to be able to prepare a brief without a paralegal.

It has worked out surprisingly well. We have had some significant victories—expanding fair housing rights, protecting women from abuse, and correcting some practices of the local administrative court.

Barbara always said that you had to make a fuss to make a difference and a fuss she did make at Legal Aid. That was what Barbara loved so much about Legal Aid that it daily made a fuss for powerless and indigent people in the District of Columbia. Barbara would be, I am quite sure, happy to know that Legal Aid continues to make a fuss.

Thank you on behalf of my late wife, Barbara McDowell