



From Augustine to Johnson: Toward Equal Justice

By Marc H. Morial

As we progress toward an ever more equitable society, racial and gender “firsts” become fewer and farther between. But the significance of Justice Bernette Joshua Johnson’s ascension to chief justice of the Louisiana Supreme Court — the first African-American to hold that office — can hardly be overstated.

When Chief Justice Johnson was born in the mid-20th century, racial segregation still was strictly enforced. Only 1 percent of eligible African-American Louisianians were registered to vote.

In 1965, when President Johnson signed the Voting Rights Act, there were about 70 African-American judges in the entire nation. A decade later, the number of African-American judges had quadrupled but still represented less than 2 percent of the nation’s judiciary, while African-Americans represented more than 10 percent of the population.

Chief Justice Johnson represents the crest of a wave of African-American judicial achievement reaching back four decades, back to the first African-American judge in Louisiana, Israel M. Augustine, Jr., and which includes my own father, Ernest N. (Dutch) Morial.

Judge Augustine was appointed to a district court judgeship in 1969 by Louisiana Gov. John J. McKeithen, becoming the first African-American judge since Reconstruction. Two years later, he would preside over the trial of 12 Black Panthers accused of attempted murder in a shootout with police in New Orleans. He was

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Neither Delayed Nor Denied

“To no one will we sell, to no one will we refuse or delay, right or justice.” This quotation from the Magna Carta is a principle that has guided legal scholars, judges and civic leaders. As post-Civil Rights era children, schooled after *Brown v. Board*, not only did we presume we could reap the benefits of the battles long fought by our parents, their parents and their peers, there was also an understanding that they, too, would finally receive justice for the past transgressions of intentional discrimination.

The Louisiana legal system has a long and stormy history concerning how issues of color and fairness are addressed. Louisiana Supreme Court Chief Justice Bernette Joshua Johnson, respected by

the legal community, will lead the court into a new era and all of the citizens will be better served with her at the helm. There is no perfect legal system but we should always strive to seek justice and fairness. Chief Justice Johnson has always shown herself to be a proponent for those principles.

We close with the words of former U.S. Supreme Court Chief Justice Warren E. Burger and his thoughts on “Justice Delayed is Justice Denied.”

“A sense of confidence in the courts is essential to maintain the fabric of ordered liberty for a free people and three things could destroy that confidence and do incalculable damage to society: that people come to believe that inefficiency and delay

will drain even a just judgment of its value; that people who have long been exploited in the smaller transactions of daily life come to believe that courts cannot vindicate their legal rights from fraud and over-reaching; that people come to believe the law — in the larger sense — cannot fulfill its primary function to protect them and their families in their homes, at their work, and on the public streets.”

We are confident that, under the leadership of Chief Justice Johnson, the Louisiana Supreme Court will not stand for delayed or denied justice. Throughout her career, she has fought for civil rights with dignity and grace, all the time ensuring there remains a sense of integrity for our judicial system.

—Clarence Roby, Jr., Tracie L. Washington and James M. Williams
Counsel for Chief Justice Bernette Joshua Johnson



the only African-American judge to preside over a Black Panther case, and his race was raised as an issue in news coverage of the case. William M. Kunstler, who defended the Chicago 7, denounced Judge Augustine as “very much a part of the white system.” Judge Augustine, the first general counsel of Dr. Martin Luther King’s Southern Christian Leadership Conference and active with the New Orleans Urban League, retorted, “Bill Kunstler doesn’t know me very well. However I might feel, I’m a hell of a lot blacker than he will ever be.”

Just a year after Judge Augustine’s appointment, in 1970, my father “Dutch” Morial became the first African-American Juvenile Court judge — just one in a string of racial barriers he broke in his lifetime. Two years later, he was the first African-American elected to the 4th Circuit Court of Appeal. In 1977, he was elected as the first African-American mayor of New Orleans. Like Judge Augustine, my father was active in the local civil rights movement, serving as the president of the local NAACP from 1962-65 and as co-counsel on numerous desegregation cases with A.P. Tureaud, the dean of African-American lawyers in Louisiana.

Continuing the wave that began with Judge Augustine, Judge Joan M. Armstrong became the first female African-American judge in Louisiana, joining the Orleans Parish Juvenile Court in 1974. Justice

Revius O. Ortique, Jr. began his tenure as a judge in 1978 as the first African-American appointed to a seat on the Orleans Parish Civil District Court bench in 1978. He later became the first African-American chief judge of Civil District Court. In 1992, he reached the historic milestone of becoming the first African-American elected to the Louisiana Supreme Court. He and Chief Justice Johnson remain the only African-Americans in history to serve on the high court. Later, Judge Lionel R. Collins and Judge Freddie Pitcher, Jr. became district court judges in Jefferson Parish and East Baton Rouge Parish, respectively.

Despite the groundbreaking string of achievements of African-Americans, particularly in the 1970s, Louisiana remained burdened by the legacy of racism. Louisiana Supreme Court justices were elected from racially gerrymandered districts drawn to dilute the power of the African-American vote.

In 1986, a committee of plaintiffs (which I chaired) sued under the Voting Rights Act, challenging the racially gerrymandered Supreme Court districts. A companion case, *Clark v. Edwards*, was brought challenging the district and appellate court district. The Supreme Court case, *Chisom v. Edwards*, was settled in 1992 with a consent decree which created a new, majority African-American district that Justice Johnson was appointed to represent. *Clark*, also settled in 1992, has led to the election of numerous

African-American judges so that Louisiana, with 80 African-American judges, has the most representative judiciary in the nation. Justice Johnson was appointed to the new Supreme Court district in 1992, then elected in 1994, and re-elected in 2000 and 2010.

In a 2010 report on diversity in state courts, the Brennan Center for Justice found that white males are overrepresented on state appellate benches by a margin of nearly 2-to-1. According to the most recent data available at the time of the report, 27 state courts were all-white, and two were all-male.

The report cited U.S. Supreme Court justices on the value of diversity on the bench. “A member of a previously excluded group can bring insights to the Court that the rest of its members lack,” Justice Lewis F. Powell, Jr. said. Justice Ruth Bader Ginsburg said, “A system of justice is the richer for the diversity of background and experience of its participants.”

But Chief Justice Johnson’s value to the court springs from more than her status as an underrepresented minority. She is the first public interest lawyer to head the court. She brings with her the perspective of someone who has spent a career defending the rights of the underdog. The individual and personal qualities that make her a superlative jurist should not be overshadowed by her position as a trailblazer.

In my own experience with Chief Justice Johnson, I have known her to be straightforward, direct and deliberative in her demeanor. Like the groundbreaking African-American judges who preceded her, she has dedicated her efforts to equal justice and has brought that commitment to the bench.

I join the many who celebrate this 43-year journey from Judge Augustine’s pioneering accomplishment to Chief Justice Johnson’s 21st century achievement.

Marc H. Morial, a member of the Louisiana State Bar Association and the 1988 winner of the Pro Bono Publico Award, is a former Louisiana state senator, a former mayor of New Orleans and a former president of the U.S. Conference of Mayors. He is currently the president and CEO of the National Urban League. (120 Wall St., 8th Flr., New York, NY 10005)



Champion of Civil Rights

The Lawyers’ Committee for Civil Rights Under Law (based in Washington, D.C.) has long celebrated Justice Bernette Joshua Johnson as a champion of civil rights who shares our organization’s commitment to racial justice and equal opportunity for all.

In 2010, Justice Johnson received the Lawyers’ Committee’s Distinguished Civil Rights Advocate Award in recognition of her extraordinary legacy as a public servant, advocate on behalf of poor and disenfranchised people, and role model for women and youth.

Now in 2013, we celebrate again as she has become the first African-American chief justice of the Louisiana Supreme Court. This achievement has special

significance for the Lawyers’ Committee as we celebrate our 50th anniversary.

Justice Johnson’s elevation to chief justice is a historic civil rights moment for Louisiana and our country. The Lawyers’ Committee looks forward to following Chief Justice Johnson’s continuing work as a powerful and effective advocate and public servant who has demonstrated her deep commitment to securing justice and equality for all.

—**Barbara R. Arnwine, Jon M. Greenbaum and Meredith Horton**
President/Executive Director, Chief Counsel and Counsel, respectively, for the Lawyers’ Committee for Civil Rights Under Law