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Justice Ruth Bader Ginsburg's Career Long Fight for Gender Equality

OCTOBER 19, 2020

Blog Post | 109 KY. L. J. ONLINE | Oct. 19, 2020

Justice Ruth Bader Ginsburg's Career Long Fight for Gender Equality

By: Brannan Herrington [1]



Ruth Bader Ginsburg, a mother, a wife, a feminist icon, a Supreme Court Justice, and as Chief Justice John Roberts said, "a rockstar," passed away on September 18, 2020.[2] Through her fight for gender equality, one that began many years before she took her place on the bench of the highest court in the nation, she has left behind a legacy.

Ginsburg's legal career began when she attended Harvard Law School for two years.[3] She then transferred to Columbia Law School and graduated at the top of her class in 1959.[4] After law school, Ginsburg was turned down for a clerkship with Justice Felix Frankfurter on the Supreme Court because she was a woman.[5] Ginsburg became a professor at Rutgers' Law School.[6] While teaching at Rutgers, Ginsburg also volunteered at the New Jersey ACLU.[7] She was then hired at Columbia Law School, where she became the school's first female tenured professor.[8] At the same time, she was hired as the founding director of the ACLU's Women's Rights Project.[9] During her time at the ACLU, Ginsburg successfully argued six cases before the Supreme Court.[10]

In *Reed v. Reed*, Ginsburg wrote the plaintiff's brief and argued that an Idaho law that preferred males over females as administrators of estates violated the equal protection clause.[11] In a unanimous decision, the Court wrote:

"To give a mandatory preference to members of either sex over members of the other . . . is to make the very kind of arbitrary legislative choice forbidden by the Equal Protection Clause of the Fourteenth Amendment; and whatever may be said as to the positive values of avoiding intrafamily controversy, the choice in this context may not lawfully be mandated solely on the basis of sex."[12]

Reed was the first time that the Court had applied the Equal Protection Clause of the Fourteenth Amendment to a law that discriminated on the basis of sex.[13]

Another notable case that Ginsburg argued during her time working for the ACLU was *Duren v. Missouri*. In that case, a man was accused of murder and Ginsburg argued that he would not get a fair trial because under the Missouri law, jury service for women was optional.[14] Ginsburg contended that exclusion from the "democratic processes of government" was not a privilege for women. [15] The court agreed and found that distinct groups could not be excluded from serving on juries.[16]

After her time at the ACLU, Ginsburg was appointed to the United States Court of Appeals for the District of Columbia Circuit in 1980.[17] Ginsburg served on the DC Circuit until she was nominated to the Supreme Court in 1993 by President Bill Clinton[18] and confirmed to the Court by a vote of 96-3, becoming just the second woman to ever sit on the high court.[19]

Perhaps Justice Ginsburg's first widely recognized opinion was in the case of *U.S. v. Virginia*.^[20] In that case, the Virginia Military Institute, a public military college in Virginia, had a longstanding male-only admission policy. In her landmark majority opinion, Ginsburg wrote that, "women seeking and fit for a VMI-quality education cannot be offered anything less, under the Commonwealth's obligation to afford them genuinely equal protection," effectively striking down any law that "denied to women, simply because they are women, full citizenship stature—equal opportunity to aspire, achieve, participate in and contribute to society."^[21]

Justice Ginsburg gave voice to principles of equality not only in her majority opinions, but also famously in her dissents. After Justice Sandra Day O'Connor retired from the bench, and until Justice Sonia Sotomayor was appointed to the Court in 2009, Justice Ginsburg was the lone woman seated on the high court.^[22] During this time, the court heard the argument of *Ledbetter v. Goodyear Tire and Rubber Company*.^[23]

The case involved Lilly Ledbetter, who had been an employee at Goodyear, and had been paid less than her male counterparts based on her sex. Ledbetter filed formal charges with the Equal Employment Opportunity Commission, and later sued, claiming pay discrimination under Title VII. ^[24] At issue was whether the statute of limitations for the charge began when she learned of the discrimination,, which would allow her to bring suit, or whether the statute of limitations began to run when the discrimination occurred.^[25] The Court ruled that the statute of limitations began to run when the discrimination occurred—not when Ledbetter found out about the discrimination.^[26]

When the Court announced its decision, Ginsburg not only wrote a dissent but also delivered it from the bench, something that justices rarely do.^[27] Lamenting the result of the majority's "cramped interpretation," Ginsburg wrote that, "once again, the ball is in Congress' court."^[28] Congress listened, and passed an amendment to the Equal Pay Act called the Lilly Ledbetter Fair Pay Act.^[29] It became the first bill that President Barack Obama signed into law after he took office.^[30]

Justice Ginsburg has undoubtedly a left lasting impression on the United States and was a force that changed the American legal system—as a teacher, an advocate, and ultimately a justice. Through her arguments, opinions, and dissents she has left what will be an enduring legacy, and her fight for gender equality will not be forgotten.

[1] Staff Editor, *Ky. L. J.*, Vol. 109.

[2] Chief Just. Roberts, Memorial Speech for Justice Ruth Bader Ginsburg (Sept. 23, 2020).

[3] *Ruth Bader Ginsburg*, Oyez, https://www.oyez.org/justices/ruth_bader_ginsburg (last visited Oct. 19, 2020).

[4] *Id.*

[5] The Daily, *Ruth Bader Ginsburg's Life, and the Battle for Her Seat*, N.Y. Times (Sept. 21, 2020), <https://www.nytimes.com/2020/09/21/podcasts/the-daily/ruth-bader-ginsburg-supreme-court.html>.

[6] *Id.*

[7] Aryeh Neier, *How Ruth Bader Ginsburg Got Her Start at the ACLU*, ACLU (Sept. 25, 2020), <https://www.aclu.org/news/civil-liberties/how-ruth-bader-ginsburg-got-her-start-at-the-aclu/>.

[8] *Id.*

[9] *Id.*

[10] Oyez, *supra*, note 3.

[11] Erin Blakemore, *Ruth Bader Ginsburg's Landmark Opinions on Women's Rights*, History (last updated Sept. 18, 2020), <https://www.history.com/news/ruth-bader-ginsburgs-landmark-opinions-womens-rights-supreme-court>.

[12] *Reed v. Reed*, 404 U.S. 71, 76–77 (1971).

[13] Blakemore, *supra*, note 11.

[14] *Id.*

[15] Oral Argument at 15:18, *Duren v. Missouri*, 439 U.S. 357 (1979) (No. 77-6067), <https://www.oyez.org/cases/1978/77-6067>.

[16] See *Duren v. Missouri*, 439 U.S. 357 (1979).

[17] Oyez, *supra*, note 3.

[18] *Id.*

[19] 139 Cong. Rec. 18360, 18414 (1993). Linda Greenhouse, *Ruth Bader Ginsburg, Supreme Court's Feminist Icon, Is Dead at 87*, N.Y. Times (Sept. 18, 2020), <https://www.nytimes.com/2020/09/18/us/ruth-bader-ginsburg-dead.html>.

[20] The Daily, *supra*, note 5.

[21] *U.S. v. Virginia*, 518 U.S. 515, 557, 519 (1996).

[22] The Daily, *supra*, note 5.

[23] *Id.*

[24] *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, 550 U.S. 618 (2007).

[25] *Id.* at 624.

[26] *Id.* at 642–43.

[27] *The Daily*, *supra*, note 5.

[28] *Ledbetter*, 550 U.S. at 661 (Ginsburg, J., dissenting).

[29] *The Daily*, *supra*, note 5.

[30] *Id.*

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