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10 QUESTIONS

for Chief Justice Ronald D. Castille

PENNSYLVANIA SUPREME COURT

INTERVIEW BY DAVID I. GRUNFELD

Before taking the helm as the 55th chief justice of Pennsylvania's highest court, Ronald D. Castille proved his resilience and dedication as a public servant over many decades. He weathered public and press scrutiny in the "Vote No" campaign against incumbent judges and as author of the judicial pay raise opinion before his appointment as chief justice by constitutional provisions in January. Although he joined the District Attorney's office in 1971 after serving in the Marine Corps and has remained a prominent figure in the legal community since winning a seat on the court in 1993, his easy style belies his many prestigious and hard-fought accomplishments.

DAVID GRUNFELD: I remember you as a young assistant District Attorney. Did you ever conceive then that you would become the chief justice of the highest court in the state?

CHIEF JUSTICE RONALD D. CASTILLE: I had no desires or even thoughts of it whatsoever.

How about of becoming a judge of any kind?

When I originally started in the D.A.'s office, I thought I'd stay there for three years or four years and go out to be a trial lawyer in private practice. But I liked it so much that I stayed for fourteen years, and then I of course ran for D.A. and spent another six. So it was kind of by accident that I got to this court because after I ran

for mayor and lost in that primary to Frank Rizzo, I went into private practice. I started to get clients and make money. I said, "Hey, this is not bad." Then one day they called me out of the blue, the Republican Party. Anne Anstine was head of the Republican Party in Pennsylvania, and they were looking for someone to replace Justice James McDermott, who had passed away. So they called me and said, "We want you to run for Supreme Court." I tell people I was sitting there, looking at timesheets. So I'm trying to figure out —timesheets, or Supreme Court. Timesheets, Supreme Court. I said, "Supreme Court sounds good."

Now that you're the chief justice, how much time do you spend on administrative matters as opposed to case hearing and decision-making?

Well, I still have the same caseload as I did as a regular justice, the only thing I don't have is that I don't serve emergency duty anymore. The other six justices handle that. But it has probably increased my workload by at least 100 percent. The administrative is 50 percent of my time, and then having a regular caseload of a justice is about another 50 percent. And you saw my office, you saw the pile of paper. It just keeps coming and coming. It's not a paper avalanche — it's a paper tsunami.

What do you see as the major problems facing the Pennsylvania court system?

The latest one we had was judicial independence, with the individuals who were out to have citizens vote no for every judge who was up for retention election, including Justice Saylor from our court. If we lost those 68 judges and the justice, we would have lost 800 years of judicial experience, when you add up the experience they had. That would have been a tremendous blow to the court system. So fortunately that battle may be halfway over. A lot of people came on board and saw the danger to judicial independence that this kind of attack on the judiciary had. The bar associations — Philadelphia Bar Association, Allegheny, the statewide bar, the bars in every county — made a really heroic effort to educate the voters about what a retention election means. You vote the judges in or you vote them out on the quality of what they've done. Fortunately the citizens were educated. Only one judge lost, but that was because of a certain problem in his own county. We think it was a real watershed event. Of course, we are still elected, so in another year there'll be another election cycle, but we think at this time that we have beaten back this broad-based, shotgun "vote no on all the judges." Judicial independence is important because we are the third branch of government.

The other problem we would have would be financing and funding. The court budget is 5-tenths of 1 percent of the entire state budget. But the budgeteers out there, the bean counters, want to cut us back, nickel and dime us. We are very efficient; we use the money wisely; we use it correctly. There's no fat in our budget, but still they want to come after us. And you can't balance any kind of a budget on our back because we're such a small financial part of the budget.

How are your relations with the legislators in Harrisburg and the governor?

They're sometimes tense, but I think that's built into the system of checks and balances. We always have to go to them for our funding,

which makes it difficult because they sometimes come to us for judicial decisions and sometimes they don't like them. Sometimes the governor comes to us wanting judicial decisions, and sometimes the governor doesn't like it. There is generally one party who is unhappy when we make a decision. I say the only parties that go away happy when we're involved are the ones when we do marriages, and they go away happy — at least for a day.

You will continue as liaison for the Philadelphia court system. What do you see as your role in that and, in particular, what's up with the new family court building?

Liaison for the first judicial district, a lot of people think that [former Chief Justice] Sandra Schulz Newman or I were running the First Judicial District, but essentially we are liaisons. I see my role as not supervising directly but being there to oversee their activities. If they function well and they do things correctly, then they don't really need my oversight or the court's oversight. It was only a few years back that the court had to come in and straighten out some of the really financial problems and other problems that they were having over here in the First Judicial District. But in the last few years they've been running pretty well. As long as I don't get a phone call. I'm in contact with the president judges, I'm in contact with the administrative judges, but not on a day-to-day basis. I always thought that they're grown ups, they're responsible judges, they know what the system is all about, and if they can do it correctly, let them do it.

The one thing we've been trying to do is get a decent facility for family court. And that's where a person of my level can be helpful because I have more, I guess, more influence — or more drag — with the Legislature and with the governor because I am the chief justice, but I'm also a justice for the First Judicial District. We're pretty positive that we're going to get a new family courthouse in Philadelphia. It's going to take a little while. We've been working on it for years. Sandy Newman looked for places, I think we looked

at six or seven different sites before settling on the one at 15th and Arch. The Senate has approved the \$200 million line item in the capital budget. That doesn't mean that it's going to get spent. But at least the Senate has approved it. It's going to go to the House I think next week. The governor seems positive about this; the new mayor has seen the light on this and realizes that it's going to be good for the city and it's going to be good for the citizens and all the people that use that court — from the judges to the lawyers, but most importantly the men and women and children and juveniles that end up in front of that court. They ought to have a decent facility, and it should be a facility that the city of Philadelphia can be proud of. It looks like these stars may be aligned.

Nothing will happen probably until after July 1. That'll be when the budgets will be passed, so we hope that shortly after that Governor Rendell will give the OK. It's up to the governor to choose from the capital budget, but we hope shortly after that he will approve that particular project. And we can get started on it. We've already got the land over there. It's owned by the Philadelphia Parking



Authority right now, so we don't think we're going to have any problem with the Parking Authority.

It'll actually be three projects, because it'll be building the new building over here; it'll be moving out of 1801 Vine Street, which will become either condos or a real upscale hotel equivalent to the Four Seasons because it'll be right near the Barnes Foundation when that starts getting built; and then on 11th Street, I think the guy wants to "condominimize" that or recreate it into a decent building rather than the hovel that it is right now. It'll be three major building projects for the city of Philadelphia.

Can you comment on the collegiality among the justices?

Well, there are only four of us left right now. The new justices, we think they'll fit in just fine. This court is kind of odd in a way in that you're elected to it, so when you come onto the court as a Democrat or Republican, or you have a lot of friends, you have to change real quick to realize that the court is the court, and the court has to function correctly. We have to be collegial simply to get a majority vote on your opinions. You want to be able to call up the justices and say, "This is what I think it's all about," or "What are your concerns?" or "Why do you think this is off in the wrong direction?" And you try to compromise in order to get a majority. You generally stick by your point, but sometimes there are ways to accommodate other justices that'll get them to vote in the majority. And that's what we

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need, we need majority opinions that practitioners can use for guidance, that businesses can use for guidance, that police officers can use for guidance. It's important that we are collegial. The six of us now I believe will be very collegial. When I first came on the court, it was the end of the Larsen era and there was a lot of antagonism and bad feelings. But over the years, it has come to be a very collegial court. Every court session we have a dinner together where we don't discuss business. We just are there for person-to-person, collegial time. I think it's very important, and I foresee the six of us getting along very well — and hopefully the seventh and hopefully whoever gets elected next year.

What is your personal position on election of judges versus merit selection or other means, breaking it down between appellate and trial level?

When I ran in 1993, one of the things I said at that time was I'm for merit selection, or merit appointment, of judges because there are problems with the electoral system. The major problem is raising money. Who do you get money from, and do people perceive that those people who are the greatest givers get favored treatment in the courts? And I've seen some polls where about 75 or 80 percent of people polled believe that somehow this money buys them influence in the court's decisions, and that's very bad because we have to be perceived as independent. We have to be perceived as deciding

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these cases on the facts and the law, and not favoring anybody. So the fundraising activities lead to that.

The appointment process is also a little difficult because, as you see right now, there are six of us. The governor has nominated quality, qualified individuals for the four open appellate seats and it's stuck in the Senate. There's a logjam. Any merit appointment system is going to have the same problems because it's going to go to the Senate for approval, and that's where politics is going to come into play. It's just politics of a different kind. But I'm still for the merit appointment system, similar to the federal government. There are compromises, like the Missouri plan, where people are appointed and then after a certain period of time they get another retention election and the voters can have their say then. So that could be a compromise. But I would support it.

Throughout the state, I can tell you in all the different counties except Philadelphia and perhaps a little bit in Allegheny county, most of the people who are judges in those counties, or who run for judges, are known to the individuals in the counties. But we're such a big county here in Philadelphia, and to an extent in Allegheny county, that you really don't know who the candidates are, and the parties do not select candidates on pure merit. They select them on electability, on what they've done for the party, things like that. So you get extraneous factors that get these people onto the bench who may be qualified. Most of them are qualified fortunately, but sometimes you get some individuals who should not be judges, and that's part of the not knowing who to vote for problem. The important thing is that the bar associations stay involved in judicial elections so that they can at least inform some of the citizens who care about it, about what lawyers think about the qualities of another lawyer who's trying to be a judge. It's part of the education process that's overlooked in judicial elections. On the local level, elections aren't as bad. On the statewide level, no one knows who you are. They knew who I was because I was D.A. of Philadelphia, but you hardly know any of the other individuals running. I guess they knew Seamus McCaffery because he was the Eagles judge.

You have had controversial cases — the pay hike, the casinos — almost on a daily basis. How do you ignore the potential for negative media attention, and would you go public with an

explanation as Justice Cappy did for a particularly scrutinized decision?

Well, you could just ignore the press. But we do read the newspapers, and we read what they say, but we have to be above that. You can't let how you personally feel on any matter get in the way of your judgment on the facts and on the law. And if the facts and the law bring you to a certain result, and in your mind you think that's the correct result, somebody else may dissent, but you still have to make that decision notwithstanding how the citizens feel. In every case we have, as I say, generally one party goes away unhappy.

And I think I would let the opinion speak for itself. I think the quality of the opinion is what's better than talking about it. You can see it. The pay raise opinion was 100 pages, and it actually went back to the Federalist Papers and took decisions from other states. People just tend to look at it and give it a headline. The headline is "Supreme Court gives Self Pay Raise." That's not what happened. It's a deeper constitutional question in there, and that is explained in my decision. It's hard to explain that in the press. We can explain in a legal publication, but you put it in the *Daily News* or the *Inquirer* — not many people are going to go past the first paragraph, or perhaps even the headline. You just put out your opinion and say — this is what the law says, this is our interpretation, and you'll have to live with it.

What do you see yourself doing when your term is up?

After I check out of the asylum? No, when my term is up, I might go with a law firm, do mediations, things like that. By the time I'm 70, at mandatory retirement, I'll have spent almost all of my entire career in public service: two years in the Marine Corps, twenty years in the D.A.'s office, and it'll be twenty years — if I make it to 70 — twenty years as a justice on the Supreme Court. So to me, I might deserve a rest after that. I'll have a pension, but I'll probably just retire to Florida, maybe dabble in the law after that. Teaching might be interesting. I used to teach trial practice in the D.A.'s office for assistant district attorneys throughout the entire state, and that was always interesting. But fishing on the Florida coast sounds like it might be a little better. ■

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