

Q and A

WITH JUSTICE DAVID E. NAHMIA



1. TELL US ABOUT YOUR DISTINGUISHED LEGAL BACKGROUND?

I graduated from Duke University and Harvard Law School, where I was an editor of the Harvard Law Review alongside President Barack Obama. I then clerked for Justice Antonin Scalia at the U.S. Supreme Court and worked briefly at a large firm in Washington before becoming a federal prosecutor in the U.S. attorney's office in Atlanta and at the Justice Department in Washington. After being nominated by President George W. Bush and confirmed by the U.S. Senate, I served as the U.S. attorney for the Northern District of Georgia from Nov. 2004 until Aug. 2009, when Gov. Sonny Perdue appointed me to the Georgia Supreme Court. I won a statewide election to a full 6-year term on the court in 2010.

2. MANY ATTORNEYS WANT TO GET A LITTLE BEHIND THE SCENES INFORMATION ABOUT JUDGES; CAN YOU GIVE OUR READERS SOME INSIGHT INTO YOUR HOBBIES, ETC.?

I spend most of my free time with my family, particularly activities with my two boys (ages 8 and 10). I love playing and watching sports of all kinds, and I'm an avid Duke basketball and Falcons and Bulldogs football fan. I follow politics closely, and read a newspaper every day. And, there's a stack of great books by my bed that I'll get around to reading someday.

3. IMMIGRATION LEGISLATION IS IMPORTANT TO AN AGRICULTURAL STATE SUCH AS GEORGIA:

WHAT DO YOU ANTICIPATE WILL BE THE GEORGIA SUPREME COURT'S ROLE?

Almost all immigration disputes are resolved in federal rather than state courts. As the son of two immigrants – from Egypt and Germany – and a former prosecutor who worked on a variety of immigration-related matters, I observe the ongoing efforts to reform the immigration system with interest, but my court is unlikely to get many cases in this area.

4. WHEN WAS THE LAST TIME THE GEORGIA SUPREME COURT VOIDED A LEGISLATIVE LAW?

We always presume that legislative acts are constitutional and try where possible to construe statutes to be valid, but when a law clearly violates the state or federal constitution, our duty is to declare the law unconstitutional. That is a fairly rare occurrence, but our court did it recently in a case holding that the 2010 amendment to Georgia's Local Option Sales Tax (LOST) statute violated the constitutional separation of powers by requiring judges to determine how such tax proceeds should be distributed. See *Turner County v. City of Ashburn*.

5. DO YOU HAVE ANY INITIATIVES OR LEADERSHIP ROLES PRESENTLY WITH THE COURT?

Our court is led by Chief Justice Hugh P. Thompson, who began his four-year term in August. All of the justices lead, serve on or act as the court's primary liaison to various commissions and committees. For example, I serve as our liaison to the Judicial Council of Georgia with respect to

the uniform rules that govern each class of court, since the Supreme Court must approve new and amended court rules. Our court strongly supports the state's ongoing criminal and juvenile justice reforms and the state bar's efforts to increase funding for civil access to justice (legal aid).

6. ON CHALLENGES FACING THE LEGAL PROFESSION AND THE GEORGIA SUPREME COURT.

Our court, like courts at every level in Georgia and, increasingly, in the federal system, faces the challenge of budget limitations coupled with large caseloads. We want to give every case appropriate attention and resolve cases as efficiently as possible; doing so with limited resources can be difficult. By way of comparison, the justices of my court each write about 50 majority opinions per year, with the help of two law clerks each; the justices of the U.S. Supreme Court average fewer than 10 majority opinions per year, and they have four or five law clerks each.

The legal profession also faces significant challenges. As with other industries and professions, new technologies and globalization are changing the practice of law and the demand for legal services. Our law schools are producing too many lawyers who want or need – because of student loans – to work at large firms for very high salaries, but the number of jobs like that is not keeping pace while there is a growing need for lawyers to represent poor and middle-class individuals. I believe the profession will change significantly in the next generation, and it's critical that we maintain the ethical and public-service standards of the profession as that happens.

7. IN YOUR PAST EXPERIENCE YOU HAVE PROSECUTED MANY OF THIS STATE'S MOST RECENT HIGH-PROFILE CASES AND WON. WHAT DOES THIS TELL US ABOUT OUR JUSTICE SYSTEM? ANY SPECIFIC STORIES?

I was fortunate to work as a prosecutor on many high-profile cases. The most important cases were the ones that most directly challenged the rule of law – corruption by public officials and law enforcement officers that sought to undermine the rule of law from within, and plans by terrorists to destroy the rule of law from outside. We prevailed in those cases partly because of our hard work but largely because of the excellent work of the investigating agents and our support staff, the courage of

victims and other witnesses who were willing to come forward and tell their stories in court, and the good sense of everyday jurors. Our justice system – federal and state – is by no means perfect, but I would not trade it for any other because I have seen it work.

I have lots of stories and good, bad, and scary memories. One incident I always will remember is the sentencing hearing for Eric Rudolph, the serial bomber whose first attack was on Centennial Park during the Atlanta Olympic Games. The daughter of the woman killed by the pipe bomb Rudolph planted in the park – someone who watched her mother die and was seriously injured herself – looked right at Rudolph and said that she didn't hate him because there was already too much hate in the world. He was clearly shocked, since he was so full of hate. It was a remarkable scene of courage and grace.

8. IS RUNNING FOR A STATEWIDE POLITICAL OFFICE IN THE CARDS FOR YOUR FUTURE?

I think I'll stick to running for re-election as a justice. That's hard enough.

9. ON ADVICE WORTH TAKING TO HEART.

Lawyers should be proud of what we do. Think about the way we deal with hard, hotly contested issues in our courts of law – issues that often involve life and death, liberty and personal responsibility, family and property. In our legal system, those issues are decided based on actual evidence and reasoned arguments – arguments that must be based on the facts, the law and common sense, and presented in a civil manner. Lawyers develop that evidence and make those arguments; judges keep the process fair, civil and properly focused; and juries and judges ensure that only those cases supported by evidence, law and reason prevail. Now think about how our nation is going about deciding the hardest, hottest issues in the rest of our political system – issues that will shape the future of this country. I doubt that evidence, law, reason and civility are words that immediately leap to mind. I think that our approach to problem-solving should be promoted not just in our courts but in our society. And I think it's no accident that the principal drafters of the Declaration of Independence, the Constitution, the Bill of Rights and the 14th Amendment were lawyers, and indeed that 35 of the 55 framers of the United States Constitution were trained as lawyers. Be proud of our profession!