



**GUEST SPEAKER:  
CHIEF JUDGE PATRICIA CAMPBELL-SMITH  
UNITED STATES COURT OF FEDERAL CLAIMS**

**THURSDAY, FEBRUARY 27, 2014**

## United States Court of Appeals for the Federal Circuit Black History Month Program Remarks

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Good morning. I thank you for this opportunity to visit with you today. I am deeply honored to have been asked to speak this morning, and I am moved by the number of you who have come to listen.

When I received the invitation to join you on this occasion, I was advised that in addition to my remarks, there would be an exhibit showcasing a number of African American achievements in honor of Black History Month. The travelling exhibit, which has been furnished by the United States Capitol Historical Society and is positioned at the court's public entrance, is entitled "From Freedom's Shadow: African Americans at the United States Capitol." According to the Capitol's Historical Society, the exhibit was created in 2006 to trace the path of African Americans and their relationship to the Capitol. Featured in the exhibit is the journey of African Americans from their earliest role—as slaves and as freemen—in building the Capitol, to their emancipation from slavery by Congressional action within the Capitol, to their participation as members of the House and Senate serving the public from the Capitol. The exhibit chronicles these various achievements.

In the days leading to this event, I have given thought to what I might like to share with you, and I found inspiration in the concept of achievement. Achievement has been variously defined as "the act of accomplishing or finishing;" the successful accomplishment of something "by means of exertion, skill, practice, or perseverance;" "a result gained by effort;" and "a great or heroic deed." Expressly contemplated in the definition of achievement is the notion that one has applied her or himself to a task or a goal that does not come easily, but rather requires concerted effort, bravery, discipline,

and perseverance. An understanding of what is required for achievement is generally accompanied by a great respect not only for the thing accomplished, but also for the tremendous effort invested in the accomplishment.

I personally am inspired by the significant, culture-changing accomplishments of women and men whose names are famously known. And I am similarly inspired by the women and men whose names are less well recognized but who—through their own consistent and courageous efforts day after day and year after year—have effected changes—some subtle, others less so—that have had a lasting impact.

Allow me to draw a few specifics to your attention. As I do so, I will focus on a few notable firsts in the judiciary, but will occasionally venture beyond the judiciary to provide context and background. I observe that the judiciary is a subject of interest to me and one that I suspect might be shared by some of you who have joined me this morning. I also ask that you bear with me as I alternately trace the course of an achievement forward before turning back in time to highlight yet another historic milestone.

Within the realm of the judiciary, the Federal Judicial Center identifies 3,473 presidentially appointed judges who have served since 1789 either on the United States District Courts, the United States Court of Appeals, the Supreme Court, the former United States Circuit Courts, or the federal judiciary's courts of special jurisdiction. The number of African American judges who have served during these 225 years is 196, to include—from the national courts—two jurists who have served on the Court of International Trade and three jurists who have served on the Court of Federal Claims.

Nearly 88% or 172 of the presidentially appointed African American judges who have served on the various federal courts were appointed in the last 40 years. Also during the last 40 years has come elevation for 12 of the 16 African American judges who have been elevated from one federal court to another. I note further that of the serving African American judges, 59 have served in the capacity as chief judge; all have done so within the last 40 years.

The personal stories are as varied as the paths that led these jurists to choose this form of public service. The presence of these jurists has and continues to enrich the tapestry of the federal judiciary and leaves an indelible imprint on the law, the courts as well as the parties who have appeared before them, the staff of the court, and the public in general. And it is a matter of particular import to those seeking justice to find a measure of resemblance in those bearing responsibility for meting out justice.

I turn now to highlight a series of achievements by African Americans in the law and the nation's judiciary. I begin with Macon Allen who in 1844 became the first African-American acknowledged to have gained admission to a state bar after he passed Maine's bar examination. One year later, he gained admission to the Massachusetts' bar and in 1848, the governor of Massachusetts appointed Mr. Allen to serve as a

justice of the peace. Thereby, Judge Allen became the first African American to serve in any judicial capacity in the nation.

In 1852, the governor of Massachusetts appointed Robert Morris to serve in the position of a county magistrate – a more formal position than that of a justice of the peace.

Of note, these two judicial appointments preceded the historic establishment of the Court of Claims in February of 1855. Also meriting mention is the fact that their appointments occurred at the same time that the bar of color existed in many places in America where African Americans continued to labor under the yoke of slavery. Yet even then, a bar of color was emerging that would participate in the nation's legal system as jurists.

In April of 1862, President Abraham Lincoln signed the District of Columbia Emancipation Act, which brought slavery to an end in the District of Columbia. Nine months later, President Lincoln issued the Emancipation Proclamation.

Two years after the issuance of the Emancipation Proclamation, John Swett Rock of Massachusetts became the first African American admitted to practice before the United States Supreme Court. Please indulge me here to share a bit more about Dr. Rock. One of the first African Americans to earn a medical degree, Dr. Rock worked as a dentist while awaiting acceptance to medical school. An exceptional dentist, Dr. Rock received acclaim and an award for a set of dentures that he fashioned from silver and made available for public display, at the request of other dentists. Eventually admitted to medical school, Dr. Rock earned his medical degree in 1852 from the American Medical College in Philadelphia. Thereafter, he established his own dental and medical practice in Boston. Many of his patients were ailing fugitive slaves who were travelling along the underground railroad in an effort to reach Canada. Dr. Rock also provided medical services to an integrated organization of abolitionists. Nine years after graduating from medical school, Dr. Rock decided to abandon the practice of medicine to study law. As I mentioned earlier, it was he who in 1865 became the first African American admitted to practice before the nation's Supreme Court.

In the same year as Dr. Rock's admission to practice before the Supreme Court, Johnathan Jasper Wright became the first African American lawyer in Pennsylvania and the first to sit on any state supreme court when in 1870, he began serving on the South Carolina Supreme Court. He served a seven year term.

In 1873, President Rutherford Hayes appointed John Moss to serve as a justice of the peace in the District of Columbia. Judge Moss was the first African American judicial officer in the district. Judge Moss was reappointed to the position by Presidents James Garfield and Grover Cleveland.

In 1909, Robert Terrell became the first African American appointed to any full judgeship position under the authority of the United States government when he began serving on the newly formed municipal court of the District of Columbia. He served for

16 years, until his death in 1925. Judge Terrell was succeeded by James Adlai Cobb, another African American lawyer.

Judge Cobb served on the municipal court of the District of Columbia for 10 years. He was succeeded in 1935 by yet another African American lawyer, Armond Scott. Nominated by President Franklin Roosevelt, Judge Scott served on the court for 25 years.

In 1937, two years after Judge Scott's appointment to the municipal court of the District of Columbia, President Roosevelt appointed William Hastie to serve on the United States District Court for the Virgin Islands. Judge Hastie was the first African American to serve on a United States District Court. At the time of Judge Hastie's appointment, the judicial position he held was not established under Article III of the United States Constitution and thus, did not carry lifetime tenure. Judge Hastie resigned from the position two years after his appointment. A Harvard Law School graduate who had served on the Harvard Law Review, Judge Hastie left the bench to serve as the dean of Howard University's School of Law.

Again, I ask your indulgence as I observe a few more notable accomplishments in Judge Hastie's career. After resigning from the bench in the Virgin Islands, Judge Hastie served as a civilian aid to Secretary of War Henry Stimson during World War II before he resigned from that position to protest racial segregation and discrimination in the armed forces. He eventually returned to the Virgin Islands to serve as its first African American governor from 1946 to 1949. He also worked collaboratively with his former law partner Charles Houston and another African American lawyer, Thurgood Marshall, to develop the litigation strategy that culminated in the Supreme Court's decision in *Brown v. the Board of Education* (1954).

Filling the vacancy Judge Hastie left on the District Court for the Virgin Islands was Herman Moore. In 1939, Judge Moore became the second African American to serve on a United States District Court.

Six years later, in 1945, President Harry Truman appointed Irvin Mollison to the United States Customs Court. Those of you gathered with me today will recognize the United States Customs Court as the predecessor of the United States Court of International Trade, which was statutorily established in 1980, thirty-five years after Judge Mollison's appointment to the bench.

In 1949, Judge Hastie—whom I mentioned moments ago—was appointed, during a Congressional recess, to the United States Court of Appeals for the Third Circuit. Upon his appointment to the Circuit Court, he began serving in the highest judicial position attained by an African American at that time. Judge Hastie served on the Third Circuit for twenty-one years, including three years—from 1968-1971—as chief judge. His service as the chief judge of a federal appeals court was another notable first in Judge Hastie's accomplished career.

Returning to the chronology of firsts for—or notable achievements by—African Americans in the judiciary, I draw your attention to the appointment in 1957 of Scovel Richardson as the second African American to serve on the United States Customs Court. He joined then sitting Judge Mollison. Judge Richardson sat on the bench for 25 years, of which the last two were spent, by operation of law, on the Court of International Trade.

In 1961, four years after Judge Richardson's appointment to the Customs Court, President John Kennedy telephoned James Parsons, a former Assistant United States Attorney and newly elected judge serving on the Superior Court of Cook County in Illinois. President Kennedy communicated his interest in nominating Mr. Parsons to the United States District Court for the Northern District of Illinois. Amenable to such public service, Judge Parsons became the first African American Article III United States District Court judge with life tenure. Judge Parsons eventually served six years as the first African American federal district court chief judge from 1975 to 1981.

Also in 1961—which was the year of Judge Richardson's appointment to the Customs Court and Judge Parsons' nomination to the district court in Illinois—President Kennedy nominated Thurgood Marshall to serve on the United States Court of Appeals for the Second Circuit. Judge Marshall served on the court, initially by recess appointment, for four years, until President Lyndon Johnson tapped him to serve as the first African American United States Solicitor General. As Solicitor General, he won 14 of the 19 cases he argued on behalf of the government before the Supreme Court. He was tapped again two years later, in 1967, to serve as the first African American and the 96<sup>th</sup> Associate Justice on the nation's Supreme Court. He served on the court for 24 years and upon his retirement, was succeeded by current Associate Justice Clarence Thomas.

Looking back once again, I point to the year 1966. At that time, Constance Baker Motley was appointed to serve as a judge on the United States District Court of the Southern District of New York. She was the first African American female to do so. She had the distinction of a number of firsts, including her service as the first female African American in the New York state senate and as the first female president of the Borough of Manhattan. During her tenure on the bench, she also served as the court's chief judge. She remained on the bench until her death in 2005.

In the same year as Judge Motley's judicial appointment, James Lopez Watson was appointed to serve on the United States Custom Court. The third African American to receive such an appointment, he sat on the bench for twenty-five years, serving the last eleven, by operation of law, on the Court of International Trade.

In 1982, Reginald Gibson, a former tax attorney with the Department of Justice, was appointed to the then-named United States Claims Court. Judge Gibson served a thirteen-year term before he retired in 1995. He was the first African American to serve on what is now known as the United States Court of Federal Claims.

In 1998, three years after Judge Gibson's retirement, Judge Lynn Bush was appointed to the Court of Federal Claims as the first African American female to serve on the court. Prior to joining the bench, she worked in the Civil Division's Commercial Litigation Branch of the Department of Justice before moving to the Naval Facilities Engineering Command of the Department of Navy. Judge Bush continues her service having recently completed a term of fifteen years.

And this morning, I stand—nominated by the nation's first African American president in the 150<sup>th</sup> anniversary year of the Emancipation Proclamation—to serve on the Court of Federal Claims as the third African American judge, the second African American female, and the first African American chief judge. I am profoundly humbled and indescribably inspired by the rich heritage that has preceded me in the judiciary.

On a personal level, I am ever mindful of the providential requirements set forth in the text of Micah: to act justly; to love mercy; and to walk humbly with Adonai – summed up simply as justice, mercy, and humility. To these virtues, I am firmly and wholly committed.

As I appear before you today, I stand on the shoulders of those who came before me and whose great efforts and achievements have paved the way for me. Recognition of their dedication and sacrifices deepens my own resolve to embrace and observe the highest standards established for my office.

Thank you kindly for your patient attention.