

Leah Sears

The Courage To Be First

By Stephanie Goldberg

It's been a busy week for Leah Sears, who was elected chief justice of the Georgia Supreme Court on March 2, 2005. Sears' career has been a string of firsts—she is the first woman to sit on her state's highest court, the first woman to head it, and the first African-American woman to serve as chief justice at the state supreme court level.

Days after the horrific murder of a judge and two court employees in an Atlanta courthouse—in the very room where Sears used to preside as a superior court judge—her schedule is crowded with funerals, a somber reminder of the gravity of her job.

“We're entering a time of history when it's open season on judges,” Sears laments. “We're maligned as ‘activist judges’—the campaigns are becoming malicious. People don't respect the fact that this is a third and co-equal branch of government. Politicians see us as sitting ducks.

“You really have to have courage to do this job,” emphasized the 49-year-old graduate of Cornell University and Emory University's School of Law.

Overcoming Political Opposition

And courage is exactly what it took to weather her campaign for re-election to the state's supreme court on July 20, 2004. Sears, who ran as a Democrat, was targeted for defeat by the religious right. Her opponent received the endorsement of the state's governor and employed experienced Republican strategists behind the scenes. Nevertheless, Sears won easily by a 2-to-1 margin—her third contested election for the state's highest court.

“All of my elections have been hotly contested,” she remarks. “There's always an attempt when I run to take me off. I don't know what it's like to get a pass.”

Sears says she wasn't surprised by the vitriol of the last campaign. “I think things are going to get worse before they get better,” she says. A mailing by her opponent pointed out that she had won the endorsement of a local gay, lesbian, bisexual, and transgender (GLBT) organization and showed a picture of Sears opposite a picture of two men cuddling. The implication was that a vote for Sears was a vote for gay marriage.

Former Georgia Attorney General Michael Bowers jumped into the fray, labeling Sears “unpredictable” and “unwilling to follow the law.” Bowers was closely associated with the U.S. Supreme Court case that bears his name, *Bowers v. Hardwick*, 478 U.S. 186 (1986), which upheld the constitutionality of state laws that criminalize sodomy. (Bowers was overruled by the Supreme Court in *Lawrence v. Texas*, 539 U.S. 558 (2003).) It was another attempt to make gay rights, rather than Sears' record, the central issue.

But Sears held her ground and maintained her dignity. When the state branch of the Christian Coalition asked her to fill out a questionnaire indicating her support of half a dozen Georgia Supreme Court cases, Sears declined, stating that “to do so could open up the floodgates for the judicial campaigns of the future. Special interest groups would begin to weigh in, and many of those groups won't care about a judge's credentials,

qualifications, character, or integrity. They will care about just one thing: if they bring a case, will the judge vote their way or not?”

Is Sears as extreme as her critics claim? Brian Harrell Harbour, a political science professor at the University of North Carolina, did an analysis of Sears’ cases and wrote that she “is definitely not a judicial extremist, the kind usually found always dissenting on a court. To label her a liberal or an activist judge is clearly incorrect.” Her positions on hot-button issues tend to be nuanced. She authored a concurring opinion in *Dawson v. Georgia*, 274 Ga. 327 (2001), declaring that electrocution was cruel and unusual punishment, but has voted to affirm 75 death penalty cases.

A stickler for accuracy, Sears was adamant during the last campaign that “I’ve never said anything, in an opinion or any other context, about supporting gay marriage.” She came close, however, in a 1993 divorce case, *Van Dyck v. Van Dyck*, 425 S.E.2d 853 (Ga. 1993), where she wrote that it would be unfair to reduce the alimony of a woman who was cohabiting with her same-sex lover because “they are forever denied the numerous legal rights that come with marriage.” More recently, she argued in a dissent that the court had the power to strike a referendum against gay marriage as unconstitutional. Gay rights’ supporters also find encouragement in her forthright denunciations of invidious discrimination. “I do not like discrimination against anybody based on characteristics they were born with and can’t do anything about,” she stated in a 1999 speech. “It’s so fundamentally un-American. I feel it in every cell of my body. It’s the theme of my life.”

Resilience and Persistence

She rejects the suggestion that judicial candidates need to be thick-skinned. “I think you have to be resilient and be prepared to fight some battles. You do have to be strong, but I don’t want to see women who are cold and insensitive getting this job because that would not be a good thing.” Above all, she says, “you must be persistent. If you get knocked down, you have to come right back up, and you have to be willing to throw a few punches.”

Such were the lessons she learned growing up with a father in the military and a mother who was a schoolteacher. “My parents were my role models and heroes,” she says proudly. “I have two brothers who were naval academy grads and graduates of Stanford Law School, so they must have been doing something right,” she laughs.

Born in Heidelberg, Germany, Sears grew up in Savannah, Georgia, where even as a child she was fascinated by the inner workings of the U.S. Supreme Court. She watched the implementation of *Brown v. Board of Education*, 347 U.S. 483 (1954), thinking the court “was the be-all and end-all—the place where all these changes were occurring for African-Americans. I wanted to be on the Supreme Court, never guessing I would end up there in one way or another.”

But the path she embarked on after law school was that of a young corporate lawyer at Alston & Bird LLP in Atlanta. “If you come out of a middle-class background, it’s easy to get lulled into complacency by the money. You think, ‘I could have a nice car and a nice home,’ and all that. I have that now, but not on the scale I would have had as a partner at a big firm.” Sears knew she wanted more, however. “I was not one to let life unfold. At an early age, I made definite choices about what I wanted to do in life.”

She became active in local politics and, at age 27, was appointed by Mayor Andrew Young to the Atlanta Municipal Court, where she presided over civil, criminal, and domestic cases. In 1992, Gov. Zell Miller appointed her at age 36 to the Georgia Supreme Court. “I remember how hard it was for me to call the other justices, who were all older men, by their first names. I guess it was noticeable because finally one took me aside and said, ‘Call me Charlie.’ I burst out laughing, and it cut through all the tension. They really liked me, and I really liked them.”

She admires her colleagues for mentoring her, but stresses that they studiously avoided influencing her opinions. “There’s a lot that goes into being a supreme court justice besides deciding cases. It’s the political and administrative aspect that comes as a shock,” Sears says. Her fellow justices gave valuable counsel, teaching her “how to wade my way into the General Assembly for this or that.”

In turn, as a baby boomer, she put her stamp on the judiciary by being accessible to reporters. “Candor has been a trademark, fortunately and unfortunately,” she says. “But it’s what my generation does. Communication and relationships are important to us.”

Four Projects for the Future

She hopes that a commitment to accessibility will mark her tenure for the next four years as chief justice. She has four projects in mind. The first is to “really emphasize judicial independence and separation of powers—a doctrine I think is getting really blurred.”

Secondly, she wants to work with civil legal providers to make sure that state residents have basic access to counsel to meet their needs.

Her third goal is a bit surprising for someone who is so frequently tagged a liberal. “I want to have a dialogue on the importance of

marriage,” says the twice-married mother of two, noting that 44 percent of her state’s caseload deals with domestic relations. “One out

of every four children has some kind of government intervention in terms of child support and custody. What I’d like to say is that courts cannot become a third parent when parents don’t get married or can’t stay married.”

Sears is alarmed “that middle-class women see marriage as a lifestyle option when they’re going to have children. The statistics bear out that this isn’t very good for children or society or the justice system.”

Finally, she aims at improving the average Georgia resident’s “judicial literacy.” “We hold statewide elected offices, and many people don’t know what we do,” Sears says.

Her advice to women who want to follow in her footsteps? “Work in political campaigns, and get to know who has the authority to appoint you. Understand how the process works. You’ve got to become political.” And, of course, never give up.

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