David Thompson: Good afternoon, Justice Moore. My name is David Thompson and I am interviewing you this afternoon for the California Appellate Legacy oral history project. It's an honor to be here with you.

Eileen Moore: Well, I'm so glad you're here, David.

David Thompson: Thank you. Can we start in the beginning and talk a little bit about where you were born and raised?

Eileen Moore: Yes. I was born in Philadelphia, Pennsylvania. Irish Catholic family. It seems like it was another world then. My father, I remember telling him — I don't know how old I was, sometime in high school — I had just won an essay contest in Philadelphia and all of Philadelphia. And I said that I'd really like to go to college and become a journalist and he became real quiet. I had four brothers and a sister and grandmother. There were 10 of us in the house.

David Thompson: Wow.

Eileen Moore: One bathroom. I never took a shower until I went to the dormitories. So, at any rate, he said that we have to save the money for the boys to go to college, so you won't be able to go to college. But that was the norm. I expected that he might say something like that, and that was the end of any discussion of college. He told me that what might be best for me would be to become a nurse and then, if my husband, whoever that might be, became disabled for some reason, couldn't work, that I would always be able to step in and take care of things temporarily. So that was my father, I loved him dearly. Believe me, I'm not being critical of him.

It really was a different time, and my mother cried a lot, and I remember having a conversation with her. Oh, gosh, I must have been 13 or 14, and I said, “Mother” — I was so stupid, why would I ask her this? — I said, “Did you ever want to be anything?” And she burst out crying, and she said she always wanted to be a librarian. She had to drop out of school when she was about 16 because her mother died and there were a bunch of kids that they had to take care of. And she got a job at the five-and-dime. So that was my parents.

David Thompson: Different times. How about your siblings?

Eileen Moore: My brother Tom — my father always had two full-time jobs and most of the time had a third part-time job. But one of his full-time jobs was that he was a Philadelphia fireman and my brother Tom went on to become a Philadelphia fireman and he became a battalion chief in Philadelphia. My sister, she died in her early 40s — melanoma ran through the family — but she had just finished, I think, an associate’s degree at that point.

Then there is me, I was the third one. My brother Jim, what did he do? I can't remember exactly but it was something in construction. My brother Danny went in the Air Force. My brother Larry went straight to college. He graduated from Villanova, and it was so ironic that my father and my brother were these big-deal firemen in Philadelphia, and Larry went off to, right before he was to start graduate school, he rented a house, the third floor of some couple’s home, and he came into his apartment and he smelled gas and he turned on the — no, what he did was he lit a match and 93 percent of his body was burned whole. It was so tragic; he was 21 years old. So that's my family.

David Thompson: Horrible. Are there any other relatives that you want to mention from your childhood?

Eileen Moore: Well, I guess I could mention Nana. Nana was my grandmother, one of the 10 of us that lived in the family. And she and my aunt had a drinking problem. My mother would go to the Acme, the supermarket, once a week and Nana would nab one of us kids because, in Pennsylvania, they had state stores. So, you had to go to the state store to buy your alcohol, and she was a very vain woman.

00:05:06

She had that white, bluish hair that women had, wearing it up in some kind of do, and she would take a John Wanamaker's bag, a shopping bag, a real nice-looking shopping bag, but she needed to kind of lean on somebody to walk and she didn't want to use a cane. So, she would lean on your shoulder and we had to walk Nana to the state store and there she would load up, and my mother was always so mystified why we kids didn't tell Mother. I don't know.

It's just — kids are put in the middle of these things and you don't quite know what to do, but she’d load up, and my mother would be doing the laundry and find a bottle of gin at the bottom of the hamper and different places around the house and [she’d say], Nana, I don't know where you get this!

David Thompson: How interesting. Did her drinking problem cause issues in your family?

Eileen Moore: Well, neither of my parents drank and none of us of the six of us. None of us became great drinkers. We might have a glass of wine now and then, but I think it probably had the adverse effect of seeing how ugly alcoholism can be.

David Thompson: So back to your father's advice about not going to college, did you take his advice?

Eileen Moore: Well, there really wasn't much of a choice if you came from a poor family in those days, and this was a poor family. So, I went to nursing school and I graduated, took the state boards in Pennsylvania, became a registered nurse and then I went in the Army Nurse Corps.

David Thompson: How did that come to pass that you went from private practice nursing into the army?

Eileen Moore: Well, the army came, some recruiter came to the nursing school. I don't know exactly when, but the tuition was $75 a year and my parents couldn't afford it and I was doing my best. But it was really difficult to be in school and — because you had to work on the wards as well as study. Nursing school was different then, it wasn't just pure college. You had to work your way through it and the army agreed to pay my last two years of $75 a year. And so, that's how it came about and then after I got the results of my state boards then I went in the army.

David Thompson: So, you were required then to join the army at that point?

Eileen Moore: I was.

David Thompson: Did you have a commitment for a certain number of years with them?

Eileen Moore: No.

David Thompson: And can you tell us more about your military service?

Eileen Moore: Well, I worked in — I went to Vietnam during the war and that Vietnam experience probably — I don't think I realized it at the time and I didn't realize it for a few decades afterwards, but it probably stamped me for a lot of what I do today.

Especially since the very first night that we were there — my best friend and I did it together, Pat — but we had different stations. We were in Saigon, and we were to ship out the next morning, and I was going to Qui Nhơn and she was going to Pleiku, and when we got into the room — there was something called the Transient Nurses Quarters, and it was an old French villa. It was kind of dilapidated looking, but as the head nurse of all Vietnam, Colonel Marian Tierney, walked us, picked us up at Tan Son Nhat Airport and took us to the villa, and there was a place called the Transient Nurses Quarters.

But to get there you had to walk by some kind of a bar that they had in there and the wolf whistles started then. And I think Colonel Tierney realized there may be a problem when she saw the men looking at us, and she stationed a Vietnamese man to guard our door. And pretty soon — we went into the room and there was another nurse from Oklahoma named Helen that was there already.

And pretty soon the banging on the door started. “You girls want to go get a drink? No, thanks.” And the banging became more and more insistent, and the demands became more and more insistent. And I remember getting down on my hands and knees to look out the little slats at the bottom of the door, because this was the tropics, (00:10:03) to see if that guard was still there, and sure enough, this Vietnamese guard was down on his hands and knees looking in trying to catch whatever glimpse of us he could see. And before long the words began with a “c” and an “f” and it got uglier and uglier.

David Thompson: This is your first day in country?

Eileen Moore: This is the very first day. And at some point, the banging became so hard that we heard the wood splinter on the door. And then a fist came through and then they were tearing the wood out of the door. And Pat was in the shower — there was no shower curtain, and the towel was a like a little tea towel — and she’s screaming. And Helen’s up on the top bunk of one of the beds and she’s swinging her legs back and forth. She hadn’t seen anything like this in Oklahoma. And I didn’t know what to do, so I went to the window, and I could see that there was a guard patrolling the perimeter, and I jumped out the window — we were on the first floor, thank God. I jumped out the window and I went to get him. And I explained what would — “Can’t leave my post, ma’am.” And I said, “You have to, you have to help us.” “Can’t leave my post, ma’am,” so I grabbed him by his Sam Browne belt and I literally dragged him to the window. And he and I were standing outside the window, Pat is trying to cover herself up still, Helen is still swinging her legs.

One of the men was almost inside and the other one was right behind him, you could see his arm. And the guard said, “Excuse me, sirs,” and then he saluted, and I said, “Don’t salute them, shoot them!” And they called us some ugly names and finally left, and I just sat the entire night crying in the corner.

In the morning I found the executive officer of the compound and I told him what happened, and I’ll never forget the look on his face, he had kind of this — he was — you know, the way you can pick your teeth with your tongue?

David Thompson: Mm-hmm.

Eileen Moore: Kind of like that, and behind that, you could see this grin on his face and his eyes were twinkling, and I could tell what he was thinking was, Why did I have to miss all the fun? And that was my first glimpse of what Vietnam was going to be like. That’s all I want to talk about Vietnam, I don’t want to go any further.

David Thompson: How long were you there in Vietnam?

Eileen Moore: It was just one tour and from there I went to Germany.

David Thompson: And then did you stay in nursing after that?

Eileen Moore: I did. I worked for seven years in nursing. And when I came back to the United States I picked up a book called “The Feminine Mystique” and I read that — I re-read it a couple of years ago and it’s just amazing how it’s just so basic and so nothing, it’s just like fluff, but it was an eye-opener to me at the time. And after I read that book, I mean it taught us such things as men deliberately don’t make the bed right because if they do it right then the wife will figure he can do it just as well as she can. So, they have to do it wrong so that she will always do it so it’ll be right, just stupid stuff. But after I finished reading that book, I realized that me, a nothing, the daughter of a high school dropout, a girl, that I could actually study at a university. And that’s what lit the fire under me, and I grabbed for that brass ring, and I never looked back.

David Thompson: And how old were you at that point?

Eileen Moore: 23, 24, I’m not sure but pretty young. But older than people — in those days, you were always 22 when you graduated from college.

David Thompson: And so, what did you do in your first step to move in that direction, then?

Eileen Moore: The first thing I did was, I went for — I think it was — oh, I know what I did, I did some correspondence college with the University of Maryland and I got several credits doing that. Then I did — at some point, long story I won’t go into, I ended up in California in Los Angeles and I went to West Los Angeles Community College. And then moved to Orange County and went to University of California, Irvine, and that’s where I got my degree.

00:15:07

David Thompson: Do you want to tell us anymore about how you ended up in California?

Eileen Moore: Well, I have to go into another marriage and —

David Thompson: Understood.

Eileen Moore: I just don’t want to go there.

David Thompson: So, you graduated from UCI with a degree in —

Eileen Moore: History.

David Thompson: Okay.

Eileen Moore: I love history. But I was fortunate enough that when I got into UCI, there were — I wasn’t the only one, apparently, that read Betty Friedan’s book because women across the country picked up their dainty little ankles and kicked open the doors of universities around the country. So, there were thousands of women that did exactly what I did — that is, got themselves into upper education.

David Thompson: How many women, percentage-wise, in your class from UCI at that point in time?

Eileen Moore: Enough so that you stood out, but I don’t remember.

David Thompson: Nothing like 50 percent or more today?

Eileen Moore: Oh, it was more like 5 percent, 10 percent maybe. I remember in law school there were 12 women in my class. But I wanted to tell you that I was fortunate enough at UCI to get into a — some sort of special grant of all these women that were coming back to school, that were entering school a little older than the usual student. And it was called the (00:16:44) Vera Christie Project. And they had sociologists, psychologists, educators, people from all businesses, academia, the sciences — who interviewed you at the beginning and spoke to you, advised you, and at the end there was — for each one of us, they took us separately.

They told us what they thought we might excel in, and they told me that I — with my mouth, I might make a good lawyer!

David Thompson: Did that influence your decision to pursue law?

Eileen Moore: It sure did, yeah. It gave me the confidence to do something like that, but you have to understand that there I was, studying the kinds of courses that I got to study — art history and anthropology — all kinds of things that were just so new to me, and it was so delicious to be able to be exposed to that kind of thinking. The neighborhood that I grew up in, it was — the kinds of conversation was, Hey, youse guys, want to go get a hoagie? I mean it was just so different for me.

David Thompson: So then did you go straight to law school after college?

Eileen Moore: I did. I went to Pepperdine University School of Law. And we started out in Anaheim. I could see the Matterhorn [at Disneyland] from the library, but I graduated from Malibu.

David Thompson: Okay. And there were a grand total of 12 women in your class?

Eileen Moore: Yes, and maybe 80 people in our class, 90 people, I can’t remember.

David Thompson: What was it like being a woman in law school in those days?

Eileen Moore: Well, it’s interesting that the guys all knew who we were, but they all looked alike to me, I couldn’t tell one from the other, but we stood out.

David Thompson: Were there any experiences that you had at Pepperdine that were noteworthy in terms of being singled out as a woman in any way?

Eileen Moore: Well, I remember one time, I showed up — I had gotten sideswiped by a bus on the way to school and so I was late, about 15 minutes late, I think, and when I got to the class — it was a contracts class — the door was closed and a bunch — five or six men who were standing out there to get in, and I went to open the door and they said, “It’s locked.”

So I started banging on the door and, I mean, I was paying a lot of money to go to law school, and I started banging on the door. I figured, who’s this professor to lock me out? And so, finally I banged and kicked so much that the professor opened the door and I gave him a piece of my mind that he shouldn’t be locking me out, that I was sideswiped by a bus. And these men just kind of slinkered as I ran interference for them, and I guess I shouldn’t have done that, but I did, because years later I ran in to the professor and he never forgot it.

00:20:07

David Thompson: Anything else that you want to tell us about your law school days?

Eileen Moore: I remember in criminal law we had a professor and there was a case — it was something about a baby, it was a murder case. And the baby died from lack, from malnutrition. It was a tiny baby, and the wife was charged with — apparently, the husband thought that the baby was the product of an extramarital affair, and he didn’t want his wife to feed the baby, and she didn’t feed the baby. And, I wasn’t thinking like a lawyer yet, so I raised my hand — and she was the one that was charged with the murder — and I said, “Is there any way to tell whether or not the husband was charged with the murder?” And with that, the professor pulled out the Bible and he went to three or four places where women were supposed to suckle the babe and it’s a woman’s job to feed children, and that stuck with me as well. Because the professors I don’t think were used to having women in the class either. It was a change of culture that was going on.

David Thompson: Fascinating. And so, you then took the bar exam and commenced working as a lawyer? Is that right?

Eileen Moore: I did. I worked for the Law Offices of Herbert Hafif.

David Thompson: Your first job?

Eileen Moore: My first — my only job as a lawyer. I worked there for 10 years. I started out in the main office in Claremont and then after I got the bar exam results, went down to Newport Beach and I worked right on the — my office was right on the water in Newport Beach.

David Thompson: What kind of cases did you handle?

Eileen Moore: Well, first, let me tell you about my first day.

David Thompson: Please.

Eileen Moore: I walked in and the fellow that was in charge at the Newport Beach office apparently had just worked himself up into quite a lather over the fact that a woman lawyer was going to be coming in there. And he — what did he say? I walked in and he — I don’t even think he even said hello. He said, “I want you to know that around here, a woman lawyer is like a pencil sharpener. She’s not permanent and stationary until she’s screwed on top of the desk.” There was some hostility, I would say.

David Thompson: Wow. That’s an understatement. How many lawyers were there in the Newport Beach office?

Eileen Moore: I got to tell you one more thing.

David Thompson: Please.

Eileen Moore: When I was looking for a job, and I still remember his name — maybe I’ll say his name. His name was Lester Miller. He was the head of the firm, and they did a lot of work for Liberty Mutual Insurance Company, and their office was at the top floor of the Sumitomo Bank building, which I don’t think is there anymore in Long Beach.

I was interviewing with the head of the firm. Now, I had good grades, I looked nice, I thought the interview went pretty well. I answered the questions and I thought, away, that I did just fine. And at the end of the interview, he said — this is 1978 — “I know a lot of firms are doing it, but we’re just not ready. We’re just not ready to have a woman lawyer.” And that was the kind of reception that I think — I guess I was lucky to get the interview to begin with, but that kind of reception, getting that — just charged me more that you’re not going to stop me, I’m going for this.

David Thompson: You weren’t discouraged at all?

Eileen Moore: Well, I want to tell you what happened with Lester Miller later. Fast-forward 12 years, and I was supervising judge of the Law and Motion Department on the superior court. And who walked into my courtroom? And as soon as he walked in — this is a crowded courtroom — I saw him as soon as he walked in.

00:25:00

I recognized him. Now, I was little miss nothing to him, so he had no reason to remember me, and I don’t think he did. When I called his case, everything within my being wanted to say, “Are we ready yet?” But I let it go. I just heard his case and I just figured at least he was honest with me. You know, he could have told me that I had lettuce in my teeth or something or given me any kind of reason for not giving me the job, but he told me the truth.

David Thompson: But Herb Hafif was a little more progressive, shall we say?

Eileen Moore: I didn’t understand it at first. The firm did only personal injury and insurance litigation and later I developed a practice of employment litigation, but I learned later that he had the idea of starting a divorce practice. When I learned that, he said something like, “Yeah, I thought a broad would be good doing that.”

David Thompson: Wow.

Eileen Moore: It was a different world.

David Thompson: Anything else you want to tell us about what it was like practicing law as a woman in the courtroom in those days?

Eileen Moore: Well, for the first umpteen depositions, I would show up at some lawyer’s office for the deposition and I could hear the — well, the first two times, the secretary or receptionist at the office called up and chewed out the court reporting agency for sending two court reporters. But that kind of thing went on all the time.

My very first deposition that I took myself, the fellow who was my opposing counsel — you could still smoke inside in those days — every time I asked a question, he blew smoke in my face. But as I said, all of that just energized me more.

David Thompson: So, as a new attorney and as your career evolved, what kind of visions or goals or milestones, major disappointments did you have along the way?

Eileen Moore: I don’t know that I really had many disappointments. I loved practicing law. I guess the first big case that I was involved with, I was second chair, and the plaintiff was a 16-year-old boy that had some zits. And his doctor in Newport Beach prescribed an antibiotic called lincomycin, Lincocin, and he promptly lost both his kidneys and his spleen.

David Thompson: Wow.

Eileen Moore: And eventually, I got an order from an Orange County judge — I can’t think of his name, I think he’s still alive, I think I see his name every so often, but I can’t think of it right now — to go back to Upjohn Pharmaceutical Company in Kalamazoo, Michigan, and go through their documents. It was called a new drug application. Because that’s where, if there’s any complaints or any information about something being wrong with the product, where those documents might be found. And I got to go back there, and I only had so much time. I landed in the morning and my plane was leaving in the late afternoon.

So, I got there about eight o’clock in the morning. I must have come in the night before, but I got to the plant about eight o’clock in the morning and they kept me waiting and waiting and waiting. And finally, I complained and then I complained again and then they let me in the room.

And they had taken these million documents and they had taken them out of the folders and just scattered them around the table so that they were in no order, no indexing, no nothing. And they put me in a room, this was in August, and I just had little summer dresses with me.

00:30:00

And they put me in this room that was just freezing, and they had a guard standing over me and the guard had a three-quarter-length wool sweater. And when there was a changing of the guard, there was a changing of the sweater, it was all planned. And when I went to the ladies room, the guard came in and stood directly in front of my stall so that you could see the feet there. It was intimidation all the way.

David Thompson: Wow.

Eileen Moore: That was a really interesting experience for me. I had taken with me some — no, they had given me. They said, “If you want anything copied, put a tag like this on it or something.” So, what I did was, if I found something, I put about 25 or 30 pages of nonsense — they were charging me a quarter apiece for them — of nonsense before and 25 or 30 pages of nonsense after. But the paper that I wanted would be somewhere in there and I did that over and over and over again and it cost a lot of quarters to get that. And by the time I got off the plane, when I got back into California, I had 125 cases of — things like somebody lost their kidney, there was blood in the urine, there was protein in the urine, there was — somebody collapsed the minute or shortly after taking Lincocin. But they had taken one look at me and thought I was stupid, and by the time we got to trial, those lawyers had never gone through all those documents to figure out — and they had no idea that we had this, even though they took copies of everything I had copies of — but they just thought I was a dummy and they never sorted through and pulled out the evidence, but we had it and we used it.

David Thompson: How did that case go? Did it get tried?

Eileen Moore: They got tried in ′81, $6 million dollars.

David Thompson: Wow. Who were your mentors in private practice?

Eileen Moore: That was a toughie, you know, because there weren’t many women. But I happened to have come across a woman named Marjorie Day and she took a liking to me and she had her own practice. In fact, it later became Day & Day, with she and her son Christopher. And Marjorie Day, we’d have lunch every so often, and I looked at her and the way she dressed. She dressed in a feminine way, yet a professional way, and not with the — those days women didn’t know how to dress, they didn’t know what to do, they’d wear these little man suits with little man’s kind of ties because nobody knew what to do. But Marjorie Day, I would say, was my mentor, if I had a mentor.

David Thompson: Was she a family law practitioner at that time?

Eileen Moore: She was doing a lot of personal injury and a lot of business cases —

David Thompson: Interesting.

Eileen Moore: — when I knew her. She was probably doing family law, too.

David Thompson: So, how did it come to pass that you were interested in becoming a judge and how did it come to pass that you actually became a judge?

Eileen Moore: I guess, eventually, after I appeared in court and often saw what was happening, I thought, I wonder if I could do that? And I just sort of had a general idea that that’s what I would like to do.

David Thompson: Were there any female judges in Orange County at that time?

Eileen Moore: By the time I got on, there were three or four. I think it was Kathleen O’Leary, Linda McLaughlin, and me. But there had been a couple of others who had left already. I put my — you had to have 10 years’ experience, so as soon as my 10 years was up, I applied. Unbeknownst to me, backstory, (00:34:34) Herb Hafif had written to Governor Deukmejian a letter — and he didn’t tell me about the letter, but even a backstory to that was that Herb Hafif (00:34:46) went to battle with Deukmejian over something called “no-fault insurance” in the 70s. And apparently they knew each other. But I’m guessing that Deukmejian couldn’t stand (00:35:01) Herb Hafif because (00:35:02) Herb Hafif’s letter to Deukmejian said something like, “Deuk, I need Eileen for about a year because she is working on a case for me, so don’t take her yet.” Something like that. And I was the quickest appointment! And I just wonder if that letter didn’t have that effect of putting me on there because, by the following May — I put my application in November —and the following May 19 I was appointed.

David Thompson: Maybe Herb Hafif (00:35:37) actually intended for that result. He figured that Deukmejian would do the exact opposite of what the letter said.

Eileen Moore: I don’t know, but I think there may have been a connection somehow.

David Thompson: That’s funny. So, tell us about some of your first judicial experiences.

Eileen Moore: Well, I walked into the judges’ lunchroom — now keep in mind that on Friday, I was appearing in law and motion in Orange County Superior Court, and on Monday morning, I was sworn in by the presiding judge, Phil Cox, and then I went to the lunchroom, and the soon-to-be presiding judge was sitting there. And when I walked in, he said, “Aww.” He said, “Hey, Eileen, what do you say to an unqualified woman lawyer?” No, no, I remember what he said, “What do you say to a woman lawyer with an IQ of 70?” And I said, “I don’t know.” And he said, “Good afternoon, Your Honor.”

I thought, first of all, I’m shaking inside, but God help me, because I went right back at him, and I said, “Yeah,” I said, “What do an intelligent male judge and a UFO have in common?” And he said, “What?” and I said, “We hear them talked about a lot, but you seldom spot one.” So, I think God helped me there. Then I just sat down and ate my lunch, and everything was fine.

David Thompson: Did your relationship with [Presiding Judge Donald] Smallwood evolve after that?

Eileen Moore: Oh, I liked him a lot. I voted for him. I mean, that’s just the way men treated women. There really was a cultural shift going on and I didn’t know what my job — I didn’t know how to act any more than they knew how to treat me. So, those were the days where there, there were the bar organizations that were all men and then there is these auxiliary organizations who were the lawyers’ wives. I mean, it was just a different world.

David Thompson: Was Orange County Women Lawyers formed and active at that point?

Eileen Moore: When I was in law school, it was just starting. There were about five women, and I would sit in as a law student on their meetings. So I was one of their earliest members when it first started. It was just evolving into an organization, but it wasn’t, it was just, almost a coffee klatch then.

David Thompson: And so, anything else that you want to tell us about being one of three women on the superior court in those days?

Eileen Moore: Well, the person in the courtroom next to me was Judge Rylaarsdam and Judge Rylaarsdam and I became very close friends. And you have to understand that in my whole life, and in everything that I saw of other people, men and women who were not somehow involved were not friends. It just wasn’t the way things were done — men were friends with men and women were friends with women. And we formed this friendship that was kind of new and refreshing, and meeting him was one of the best things that ever happened to me. I really enjoyed that friendship.

We kept it up for years, and when he went on vacation I took care of his courtroom, when I went on vacation he took care of mine. We discussed cases with each other. We discussed, went back and forth about what the law was. It was just a refreshing, wonderful experience. And then in the — I guess it was the mid-90s somewhere — an opening came up on the Court of Appeal and we helped each other fill out our applications.

00:40:06

And as we were licking the envelopes, he said, “Well, may the best man win.” And he did.

David Thompson: What was it about Justice Rylaarsdam or about you or about the two of you that allowed for this sort of unusual-for-the-times relationship and friendship to form?

Eileen Moore: I have to think that it was something more about him. I was certainly eager to be friends with anybody because there weren’t many people around. There was something about him that he was just such a wonderful person, that he was open to a friendship without any strings attached and it was certainly very beneficial to me.

David Thompson: And so, he was appointed to the Court of Appeal, and you followed not too much later after he got over here?

Eileen Moore: I think he was appointed in ′96 and I was appointed in 2000.

David Thompson: Okay. Did you stay in contact with him when he was on the Court of Appeal?

Eileen Moore: Yes. We had lunch regularly. But when I was still on the superior court — well, when I was first on the superior court, my mentor judge was somebody with whom — when we had business cases, we dealt with this fellow when he was a lawyer, David Sills. And he was on the superior court when I got there, and he was appointed as my mentor judge. And I remember he said to me — he was a man of very few words, and I knew that because I remember one time, I asked him a question that was in a long letter about a case that I wrote to him, because we had cases with each other. He would refer them to our office, and I asked him a question within that, and he sent me back a letter. And it was on this beautiful stationery letterhead and everything, addressed “Dear Ms. Moore: No. Sincerely.” That was the answer to my question. So, I knew he was a man of few words. But what he said to me was, being a judge is like being a ringmaster in a circus. You’re going to have whatever’s in center ring is going to be the main act of the day, but there’s going to be acts in the sideshows, too. There might be a judgment debtor examination, there might be an ex parte motion, one right after the other. So, you’re going to have to deal with the sideshows as well as the main act. And that was all the mentoring I got.

David Thompson: Not bad advice.

Eileen Moore: No, it wasn’t. I was crazy about him.

David Thompson: Had he been a mayor of Irvine at that point?

Eileen Moore: No longer. But he had been mayor right before he was appointed to the superior court.

David Thompson: How about jury selection as a trial judge? What can you tell us about that? Did you enjoy jury selection?

Eileen Moore: Well, I realized that my voice didn’t carry. That was the big thing. I guess the thing that resonates with me the most about jury selection is a question that I would ask almost all juries unless — if a police officer was expected to testify, I would ask the jurors a question, “Have you ever had any particularly positive or particularly negative experiences with a police officer?” And it was astounding to me how Black potential jurors, year in, year out, all the time, had different experiences with the police than white jurors did. White jurors would say something like, “Well, yes, we did have a burglary at our house. And the detective was so nice, he came to our home and then he called me several times after and gave me an update on what was happening.” Black jurors: “I got pulled over 15 times, 20 times, 25 times. I wasn’t doing anything. I was just driving along. The police fly their helicopters over my house. The police are in my backyard searching.” It was just a different world — that’s probably the thing about juries that I don’t think I’ll ever forget.

00:45:00

David Thompson: Was there anything that you did as a judge that was directed at that problem?

Eileen Moore: Well, I tried to let counsel ask as many questions as they wanted in that regard so that they could flesh out whatever was going on. But, usually, the prosecutor would exercise a peremptory challenge.

David Thompson: As a trial judge you did both civil and criminal, is that right?

Eileen Moore: I did.

David Thompson: Can you tell us about one of your civil trials?

Eileen Moore: Well, the first civil trial I had, I can tell you that when I first started — a lot of witnesses would do this, and a lot of lawyers would do it, too. They would call me mister, they would call me yes, sir. They would say something like that. It really taught me that the robe — it’s almost as though that’s all they see is — it’s the robe that they’re speaking to rather than the person that’s in the robe. But my first civil trial, it was some husband-and-wife dispute. I don’t remember what it was over, but the wife pulled out an ice pick and before I knew it, she’s on the ground, spread-eagled. It was different. [Laughs]

David Thompson: This is your first trial?!

Eileen Moore: First trial.

David Thompson: Your bailiff was involved in this.

Eileen Moore: And somebody was leading me off the dais and —

David Thompson: Wow. So how about the differences between being a trial judge and being a Court of Appeal justice?

Eileen Moore: Well, back to David Sills.

David Thompson: Yes.

Eileen Moore: When I got over here — he had been my mentor on superior court. When I got over here, he was my presiding judge. So, he gave me some advice about being an appellate justice, and he said, “You know, being an appellate justice is like being in an arranged marriage with no possibility of divorce.”

David Thompson: Did you find that to be true?

Eileen Moore: Absolutely.

David Thompson: And what does that mean? How does it manifest in your day-to-day work?

Eileen Moore: Well, there you are. You’re a trial judge and you make a decision, and maybe two years later, you get something in the mail that says you were wrong, or you were right. But you don’t even remember the case.

David Thompson: Right.

Eileen Moore: So, there’s nobody there to second-guess you. But when you’re an appellate justice, you think you’ve done the work comparable with the greatest philosopher in the world and it’s just beautiful and the analysis is wonderful, and you have two other people on the panel and they completely disagree. That’s how it manifested. So, you have to learn to count to two.

David Thompson: But that was somewhere I was going to get to later. But let’s talk about it now. Do you think it’s important to have unanimous decisions or is two good enough for your perspective?

Eileen Moore: I think two is good enough, because if there’s — if there’s a disagreement. First of all, it was amazing to me how beneficial it is to the public that you have three minds thinking about it, because three people can come at a problem or a situation from different perspectives and come up with different reasoning and when you think that through, the reasoning that another person has on it, it’s just — as I say, beneficial to the public to get all that out and discuss it and figure out how to resolve the situation.

David Thompson: So do you think making decisions as a three-judge panel arrives at a better, ultimate resolution of the dispute?

Eileen Moore: Yes, I do. And when there’s a dissent, I think it’s probably good, because it’s — it tells the public and it tells the Legislature that there’s another way of thinking about this, and they may want to tinker with the statute a little bit.

David Thompson: I’ve heard some people say that it’s important for the court, if possible, to present a unanimous decision so that the decision gets more respect. Do you subscribe to that philosophy?

00:50:07

Eileen Moore: I do not. I do not. I think that it is good for people to know that a lot of thought went into making the decision and not everybody agreed but there was some discussion about it.

David Thompson: And can you tell us about some of your important cases or notable dissents?

Eileen Moore: My very first case — and it was my very first published case — so the first opinion that I filed, I published. And I think that it may have made a difference. And it was all downhill from there. [Laughs] It’s called Ball v. Bank of America. And at the time, when somebody made a motion for summary judgment, the opposing party had 14 days, I think that is what it was, 14 days to file their opposition. So in Ball, the opposing party had had several depositions taken but the court reporter got sick, and the transcripts were not forthcoming in time to include them in the opposition. Summary judgment was granted against the opposing party because they didn’t have the evidence to present. And shortly after that the Legislature changed [Code of Civil Procedure section] 437c and changed it to 70 or 75 days to give you a chance to oppose it. I think that that may have made a difference. So that case always sticks in the back of my mind. But the cases that I think are much more important, although probably not important in the long run, are cases where real human beings — it was just so important to them, to their personal assets, or to their well-being, or to their ability to be able to get medical care, whatever it was. Another case that may have made it — it probably did make a difference, because of a more recent incident, and that is — one of my opinions, and you may have been on it, I don’t remember. One of my opinions involved a teenager who took her father’s car and it was on October 31, and she rammed into something and she was beheaded and decapitated. The photographs that the police officers investigating the scene, the CHP took, ended up as Halloween messages on the internet, which caused the family no end of distress. And even years later when it made it to the Court of Appeal, they were still getting these nasty ha-ha-ha messages. But at any rate usually the right to sue for invasion of privacy died when the person died and probably my case changed that, that law in California.

David Thompson: Interesting.

Eileen Moore: But you asked me about a dissent.

David Thompson: Yes, I did ask you about a dissent. Tell us about that.

Eileen Moore: There was a case where a young boy, I think it was about 10 years ago, 12 years ago. His mother was a single mom and he was of some Asian descent, it wasn’t Chinese or Japanese, I don’t remember exactly what it was. But, his mother was afraid that he was going to start getting involved with gangs, so she sent him to Victorville to live with some family. And he was crying and carrying on because he was so lonely, and after two years she let him come back. And almost immediately he started getting beat up at school by people of some other ethnic group. So in order to get protection (00:55:00) he latched on to a gang, and he was arrested for carrying a dirk or dagger in a public park. He was on home confinement, doing his homework when his mother went to work. I think she cleaned office buildings. So, he is there alone and some of the gang members came and said, “Come on, let’s go out.” And he turned them away, but they came back later. And four of them got in the car. And somebody immediately said he had to use the restroom, they pulled over at a car wash. Two of them went into the restroom. The third one saw a man vacuuming out his car — this was the head of the gang, and he was 16. And this kid was, I think, 14. And the head of the gang said, “You up for it?,” pulled out the gun, said, “You up for it?” and the kid probably didn’t ever hear of aiding and abetting. He said, “It’s on you, man.” He followed — he went with them toward the man who was vacuuming the car and shot him. The man lived for about 15 or 20 minutes, and they took what they could, everybody got in the car. So, the two of them — the shooter got 25 years to life for the murder and 25 years added on for the use of the gun, and the kid got the exact same thing, 50 years. The probation officer wrote this report that was really glowing, saying that he had virtually no history of crime, that he was a nice boy — and probation officers don’t write that kind of report very often. But these were mandatory sentences, and I wrote a dissent saying that I thought that it was a violation of the 8th Amendment to send this kid to prison for 50 years. And that’s why I think dissents are important. It’s not that my dissent made the difference, but there were probably other dissents or other opinions over the next few years, because a couple of years later the Legislature came out with a statue of allowing these kids to put on their record why they should not be given such long sentences, and now they have a chance of (00:57:53) parole a lot earlier than they used to have.

David Thompson: And the U.S. Supreme Court has taken a lot of decisions in that area of late —

Eileen Moore: Every little bit helps.

David Thompson: Miller and so on. Let’s talk a little about your judicial philosophy. What do you think the role of the judiciary is when we’re dealing with a statute? Some people think you just look at the statute and apply it as it’s written or in other cases that you interpret the statute and try to ascertain what the Legislature’s intent was. Do you have any thoughts about that?

Eileen Moore: I think you should apply the statute the way it’s written. And then speak up and disagree, saying, “I wish the Legislature would take a look at this.”

David Thompson: In a written opinion, say, “We don’t like this result, we’re inviting the Legislature to take a look at this problem and do something with the statute to address this problem?”

Eileen Moore: Absolutely.

David Thompson: Interesting. How about conflicts between the laws as it’s written or as you understand it in your own conscience. Do you ever run into problems along those lines and, if so, how do you resolve those kinds of issues?

Eileen Moore: Well, I just told you about the dissent.

David Thompson: Right.

Eileen Moore: That’s how I resolve it. I’m not in charge of the world and we have three branches of government and I know what my branch is.

David Thompson: Okay. How about what’s commonly referred to as judicial activism versus judicial restraint or strict constructionists.

Eileen Moore: Well, you’re really asking the same question three times in different ways.

David Thompson: Okay. Shall we turn to something else?

Eileen Moore: Okay.

David Thompson: How about — I know that you are very active in all kinds of veterans’ things — you are a prolific writer, you are a fierce advocate for veterans, you’ve written books. How did that all come to be such an important part of your life?

01:00:05

Eileen Moore: It was probably the mid-1990s. The local chapter — when I said earlier that I just grabbed for that brass ring, I really never looked back — but the local chapter of Vietnam Veterans of America was having some special event at the Richard Nixon Presidential Library, and they looked me up and asked me if I would speak there. And I went out there and as soon as I got into the auditorium, off to the side you could see three rows of men in disheveled looking, tattered fatigues looking really bedraggled.

And I said to myself, Vietnam vets, homeless, self-medicated. And after I spoke, each of those three rows of men completely surrounded me and each one had to touch me somewhere — my arm, my shoulder, my back. One took his pointer finger and it was over the top of my hand — they just had to touch and connect in some way. It just reminded me that when the guys would open their eyes, in — the helicopter would bring them in and there would be some kind of surgery and then they would be taken to a ward, which was either a tent or a Quonset hut.

And when they would open their eyes they would usually reach out and touch your hand or sometimes they would reach up and touch your face, just to make sure you were there, because when they saw an American girl standing next to them, they didn’t know where they were, but wherever it was, they felt safe and they wanted to make sure it wasn’t a mirage, that we were really there — and it reminded me of that. And I thought to myself, these fellows, their country turned their back on them. Their country made them go over there, drafted them, made them go over there. They had absolutely no good memories of the war, except maybe [of] the nurses, and there was something about that incident that stuck with me, and I’ve been involved with veterans’ activities ever since then.

But in, oh, I guess it was about 2008, I started reading more and more about homeless Iraq veterans walking around the streets. And I thought, here we go again, it’s the exact same thing. The poor Vietnam vets got spit on, got totally ignored, no treatment, no anything. And now we’re doing the same thing, it’s just a whole new generation of them. We forgot everything that we learned in Vietnam. So we still had an Administrative Office of the Courts at the time and the head of the AOC was named Bill Vickery, and I had been on the Judicial Council, the governing body of the California courts, from 2005 to 2008, and I was just coming to the end of my term and I took Bill Vickery aside and I asked him, could we possibly have some kind of special group or committee devoted to veterans’ issues? And that was the beginning of the Veterans [in the Court] and Military Families Subcommittee for the Judicial Council, and I’ve been its chair ever since.

David Thompson: Is it still — go by that same title and it still functions in the same way?

Eileen Moore: It still has the same title but, at first, it was a working group or a task force, one of those. But it’s now an official subcommittee and it’s part of the Collaborative [Justice] Courts Advisory Committee.

David Thompson: Can you tell us some of the accomplishments that have been made in that arena? Some of the things that you’re most proud of?

Eileen Moore: The first important part was identifying who the veterans are because once they get themselves sideways with the law, they are so ashamed that many of them don’t want to even admit that they were in the service because they think they have let everybody down. And I, along with a couple of other people, wrote out a proposed form to this — was the first military form, it’s called MIL-100.

01:05:04

And that’s the purpose of that form, and I think that was in 2009 or 2010. The purpose of the form is to identify the veterans who come into the court, that’s MIL-100 and now there is MIL several other numbers, there’s several other military forms.

David Thompson: These are Judicial Council forms?

Eileen Moore: Judicial Council forms.

David Thompson: And that gets used as part of the screening process for admitting them to the veterans court and so on?

Eileen Moore: Yes. And in 2014, the Legislature hijacked the form and they amended the arraignment statute and that arraignment statute has been in existence for decades, but they added a couple more sections. Now, every single defendant who comes into a California court for arraignment must be offered that form. So, if they want to identify themselves as a veteran, they are given the form and given access to a veterans service officer who can help them. And the Legislature ordered the Judicial Council to put some of the benefits contained in several veterans statutes. So my committee worked on putting those on the other side of the form, so the backside of the form. So, every veteran who comes into criminal courts will have available knowing what benefits these statutes have for them.

David Thompson: What’s the most challenging issue that you see facing veterans in the courts today?

Eileen Moore: I think back to that first night in Vietnam. It’s so sad — for nine years, I went — Judge Wendy Lindley who is now retired but she started the first veterans court in California. We now have 34 of them and it was right here in Orange County that she started. And she knew I was a Vietnam vet and she asked me if I would get some of the guys to volunteer as mentors in the Veterans Treatment Court, which I did and I said, “Wendy, if you need — if you have any women that are in the court, I’d be happy to mentor them if you need me.”

So, for nine years, I went over to the local Veterans Treatment Court and acted as a mentor to those women. One woman after the other, after the other. I would say that 90 to 95 percent of them had been sexually assaulted in the military. After the experiences that I had, I knew that there were righteous situations and it was — one young woman, most of them were young women, they get them when they’re cute and young. She was ordered by the court — now the VA supports these veterans treatment courts but they’re run by the local courts, so local courts get no extra funding for it. They just have to do what they can from the goodness of their hearts. So, the VA does provide — if there was something, if there was an honorable discharge — they do provide counseling and treatment. And the VA had group therapy available, and the judge ordered this young woman into group therapy. She started, her eyes filled and she begged the judge to send her into therapy, just with women. And the VA didn’t offer that, they wouldn’t offer that, and we talked and she said, “I can't be alone in a room with military men, I just can't.” And she dropped out of veterans court, and she decided that she felt safer going to jail instead. That’s the most frustrating part of this, that there is nothing for women veterans. It’s sorely needed.

David Thompson: So, I mentioned earlier that I am aware you do a lot of writing on veterans’ issues but you’ve also done writing on other things. In fact, you have at least two books that I know about. Can you tell us about that?

01:10:00

Eileen Moore: Well, it used to be at the University of Virginia that they offered a master’s degree, a master’s in the judicial process, and it was three summers, back in Charlottesville, and you had to write a thesis. And I wrote my thesis — the professor — it was a really wonderful experience; you have no idea how great that was to be able to learn the law just for the sake of learning the law and not worry about paying the tuition or getting a job or passing the bar exam, just wallowing in the law. And every one of those professors had not only a J.D. but they had a Ph.D. in some other field, they had really smart people.

So, we were supposed to — the professor said to write something that’ll keep you awake at night. So, the first thought that I had was maybe I should write about the California Code of Civil Procedure and how that violates the separation of powers. But that was the first night I got a full night’s sleep, so, I thought, well, that’s not going to keep me awake at night. And then I started — because it was — we graduated in 2004 and it was the 50th anniversary of Brown v. Board of Education and because there was so much discussion of what was going on racially in the country around that time. And I remembered different things that happened in Philadelphia when I was a child.

Long story short, I thought, how could people like my parents, our neighbors, my grandparents, good churchgoing, decent, thoughtful people — how could they have allowed this apartheid to go on in this country? And I decided to look to the highest court in the land, which is the United States Supreme Court, and I [also] wanted to get something from popular culture. And the popular culture — for most of the 20th century the most popular, popular culture — were the movies. So I decided that I would compare U.S. Supreme Court cases with Hollywood movies vis-à-vis each institution’s treatment of African Americans, and I called it “Race Results [Hollywood vs. the Supreme Court: Ten Decades of Racial Decisions and Film].”

So, I got the thesis, did the thesis, graduated, and fast-forward a couple of years and I was waiting in line to go to some law school event and we ran into another couple, and the other fellow had tried a case in my courtroom, Neville Johnson, and I mentioned my thesis, and he said, “Send me a copy of it,” and I said, “Okay.” And of course, I just shined him on and I didn’t send it. In about nine months, a year later, he said, “You never sent me a copy of it, will you send me a copy of it?”

So, I finally sent him a copy of it. And I didn’t realize it but he had a small publishing house —

David Thompson: Oh, interesting.

Eileen Moore: — called Cool Titles, and he published my book and it immediately won four national awards. And then I decided, gosh, it would be interesting to take the same kind of thinking and apply it to women. So, I did that. In my books, I started out right around the Civil War and talked about Supreme Court cases, and then by the time the movies started, which for all practical purposes was 1915 with “The Birth of a Nation,” and just took it decade by decade and what was going on around that time, what was going on in the movies, what was going on in the law. And with “Race Results” — one would think that those nine old white men from this conservative, in this conservative ivory tower would be far less progressive than liberal Hollywood. But I found the exact opposite — that is, slowly but surely, those nine old white men progressed the law in a way that was fairer and fairer and fairer until they finally got some real results of reading the law of de jure discrimination; not so with Hollywood. Hollywood has been absolutely rotten to African Americans.

David Thompson: And did you see the same sort of results when you did the gender results book?

Eileen Moore: I did not. With “Gender Results [Hollywood vs. the Supreme Court: Ten Decades of Gender and Film]” I thought they both flunked. But I thought, both the Supreme Court and Hollywood did a pretty poor job.

01:15:06

The first case that was really very progressive, I mean, it does not sound progressive now, but for the times, for Blacks, was in 1923 when [Moore] v. Dempsey, when the Supreme Court said there was a lack of due process for the prosecution of some Black men in Arkansas. But the first constitutional violation that the Supreme Court came up with with women, and thank goodness for Ruth Bader Ginsburg, was Reed v. Reed, which was 1971 or 1972.

So, there’s like a 50-year difference in several things. It was easier I think for the Supreme Court to understand and get through the reasoning when it came to racial issues; but when it comes to gender issues, our whole society, ever since biblical times, has been so divided with men do one thing, there’s a division of labor, there’s a division of this and a division of that. People’s thinking was just different when it comes to gender issues and you can see, we’re still going through it.

David Thompson: Do you think that would change if we had a majority of female judges on the Supreme Court?

Eileen Moore: I don’t think men or women are better — neither, I don’t think is better capable of coming to the right decision, I just think you need people to think — people to think them through, whatever their gender.

David Thompson: Interesting. Do you have a third book in the works?

Eileen Moore: No, I write one article a month for the Daily Journal plus I write for a lot of other legal magazines. So, keeping up with the issues with regard to veterans — when I first started writing them, I thought that there would be a finite number of issues involved, but these veterans get a bad break every which way you turn and if the public is going to insist upon sending these young people off to war, then the public should be told what is going on and have some idea of how much is costing these wars of ours.

David Thompson: How about words of advice for aspiring judges and so on. What do you think are the rewards and advantages of your career as you’ve laid it out here this afternoon?

Eileen Moore: I have never had any regrets about becoming a judge. I think it’s a wonderful way and I feel so — wonderful way to make a living and spend my life and I feel so fortunate. I have to say that when I saw — my supervising judge when I was still in criminal law — when I was still in the superior court — was David Carter and he had these photographs, Polaroid photographs of young men in all stages of — they were gangbangers — and he was helping them get their tattoos removed so that they could be gainfully employed. Of course, nowadays, a lot of people have tattoos.

Unbeknownst to him, he showed me that judges could do a lot more than just be a judge. So, being a judge and knowing the ins and outs of the law the way we have the luxury of knowing has helped me with these community activities with veterans, so I just feel fortunate in every way around.

David Thompson: Are there any disadvantages to being a judge as opposed to being an advocate, as a lawyer?

Eileen Moore: Well, I have to zip my lip a lot.

David Thompson: Has your judicial career impacted your family life or your social activities in any way?

Eileen Moore: Well, when you go to these ethics seminars for judges, and they tell you that you have to control your spouse and your spouse for instance can’t — you can’t have political signs on your lawn.

01:20:04

I always want to raise my hand, Yeah? If you think you can control my husband, have at it! It’s pretty difficult to —

David Thompson: It is.

Eileen Moore: When you’re married to somebody who is a free-thinker, and most of us are, how do you control another human being?

David Thompson: Well, we’ve covered a lot of ground this afternoon, is there anything else that you would like to be remembered for?

Eileen Moore: Remembered for? I doubt if anybody is going to remember me at all. So, no.

David Thompson: All right. Anything else that you want to tell us?

Eileen Moore: That’s it, thank you very much.

David Thompson: My pleasure. I’m honored to be here.

01:20:54