

OPEN NINTH:
CONVERSATIONS BEYOND THE COURTROOM
FROM HAVANA TO TALLAHASSEE
EPISODE 1
AUGUST 15, 2016
HOSTED BY: FREDERICK J. LAUTEN ,JR.

(Music.)

>> Welcome to Episode 1 of "Open Ninth: Conversations Beyond the Courtroom" in the Ninth Judicial Circuit Court of Florida.

And now here's your host, Chief Judge Frederick J. Lauten.

>> **JUDGE LAUTEN:** We're honored to have as our guest today Chief Justice Jorge Labarga, the 56th Chief Justice of the Florida Supreme Court, the first Cuban-American to serve as a justice of the Florida Supreme Court, and the first Justice since 19 -- excuse me, 1865 to be re-elected by his colleagues to serve a second consecutive term as Chief Justice of the Florida Supreme Court.

Chief Justice, thank you very much for joining us today.

>> **JUSTICE LABARGA:** Thank you for having me.

>> **JUDGE LAUTEN:** So, Chief, your path to the Chief Justice position at the Florida Supreme Court is unlike any other justice. Why don't you tell our listeners where you were born and your early childhood experiences.

>> **JUSTICE LABARGA:** Well, I was born in Cuba in 1952, and my mother tells me that there was a Category 4 or Category 5 hurricane passing through Havana at the time that she was delivering me in a C-section. So the generators were on in the hospital and everything was boarded up and the whole works. So I came into the world with a bang.

And my father was heavily involved in the Cuban revolution, assisting Fidel Castro to overthrow Batista. And, of course, Fidel had promised the Cuban people an American-style democracy. Of course, as we know he changed that tune to a Marxist type of regime, which my father opposed, and my father had to leave the country in a hurry.

Now, my dad left in 1961, right before the Bay of Pigs invasion and right before the Cuban Missile Crisis. He left my mother and my two brothers and I in Cuba with my grandparents, because we lived in a nice, big house and the whole family lived in this one house.

Of course, about a week after my father left, the soldiers came looking for him because he was arresting anyone whom he thought may oppose him.

And what they would do in those days -- and I guess they still do it -- they use what they would call the Stalin tactic of arrest. Even if they were going to arrest a -- say a 90-year-old person, they will still come in the middle of the night, truckful of soldiers, ransack the house, and drag the person out into a truck that they came to arrest.

They were ransacking my house, and I remember my two brothers and I were hiding behind my mother, and my mom was pleading with them, telling them, he left. He's in Miami. He left like two days ago. They didn't believe it. They were ransacking the house, tearing it apart. My grandfather

was yelling, "I don't have to get out."

And the one thing I remember about that incident, I was -- I had to have been, what, nine at the time -- that the soldier or the so-called soldier that was nearest my mother and brothers and I, standing there with a little machine gun, that he had really bad BO.

(Laughter.)

>> **JUSTICE LABARGA:** And any time I go to the gym or anyplace now and I work out by someone who's been working out and perspiring and I smell it, it's like a flashback. It's like I'm there.

So they left the house. They -- they went to my father's friend's house, who participated with my dad in helping Fidel. They arrested those two guys. One served 30 years to the day in a Cuban prison because he did not believe in Fidel's government, and the other one was executed about two days later by firing squad. My father was the ringleader, so I assume he would have been executed.

So with that in mind, about two years -- my father came to this country. He got a job right away in the sugar industry in the Belle Glade/Pahokee area. They were draining the swamps and planting sugarcane, something that was new to Florida. And they were putting up these mills, so my dad got a job in one in Pahokee. So he established himself there.

Then the Cuban Missile Crisis came, and the blockade was

installed --

>> **JUDGE LAUTEN:** Were you still in Cuba when that happened?

>> **JUSTICE LABARGA:** My mom, my two brothers, and I were in Cuba and we couldn't get out. There was no longer a Pan Am flight to Miami that my dad took a few years earlier.

My grandfather grew up with this one man who left Cuba early in his teens for Mexico, and he became like the Donald Trump of Mexico City. He built skyscrapers and high-risers and became, like, I guess today would be the equivalent of a billionaire. He lived, like, in the Bel Air of Mexico City.

My grandfather called him and said, I need to get my -- my daughter-in-law and my three grandchildren out of here to Miami, and they can't go directly. Can you take them? Because Cuba had relationships with Mexico at the time.

So we were able to get out, boarded a plane to Mexico City. We lived there, at this person's house, like six months before we got our green card, so to speak, to come to the United States. And we flew to Miami six months later.

I grew up in a little town of Pahokee, Florida. I went there elementary school and junior high school. And then in my senior -- in high school, my father decided to move us to West Palm, and he continued to commute from West Palm to Pahokee to do his job. He just wanted us to attend better schools.

And I graduated from a very good school in West Palm Beach in 1972. And then I attended the University of Florida and graduated in '76. And then in '79, I graduated with my law degree.

And I joined the public defender's office, once graduating from Florida. I was there three years. I started in the appellate division. Then I was in the misdemeanor division, and I eventually ended in the felony division.

And then in '82, I joined the state attorney's office, and I was assigned directly to the felony division. And then I was in the organized crime division.

And later on, I joined a big law firm in Palm Beach County doing, basically, medical malpractice and personal injury work, and eventually three of us from that firm left, opened up our own firm.

In 1996, I was appointed to the bench by Lawton Chiles. I served as a circuit judge in Palm Beach County. In 2000, I was in the civil division. I actually presided -- I was the presiding judge in *Bush v. Gore*. Remember, Palm Beach County was the epicenter with the butterfly ballot and all those things. I conducted a week-long hearing on *Bush v. Gore*.

And then after that, I was in criminal. That was my last assignment. I also served in family.

Then Governor Crist appointed me to the Fourth District Court of Appeals. There were two openings at the time.

There was one in the Fourth DCA, and there was an opening in the Supreme Court. I applied for both. The JNCs for each one nominated me, so I actually was interviewed by the governor's office for the Fourth DCA and for the Florida Supreme Court.

Around December, he went ahead and appointed me to the Fourth District Court of Appeals. And I thought, well, I guess this is where I'm going to end up, in the Fourth DCA. So I actually went to the Fourth District Court of Appeals building and chose my office, and they were going to paint the colors I chose, and I picked my furniture and I was all set to go to the Fourth.

And then I remembered towards -- right before Christmastime, I always took my public defenders in my division, and my state attorneys, out for lunch for Christmas, for the holiday season. And we were out at a restaurant in West Palm, downtown West Palm Beach, having lunch. And my phone goes off, and it was the governor's general counsel.

And I said, oh, gosh, they changed their mind about the Fourth. And he asked me, he said, Judge, I have here on the speakerphone Governor Crist and the lieutenant governor, Kottkamp, and they would like to talk to you.

And I said I'm in a really loud restaurant. Let me do this. Let me -- give me two minutes to walk back to this

back alley where it's more quiet.

So I went back there and there was this guy unloading a Miller High Life beer, and he was loading up his dolly with boxes. And I'm standing there with my foot on the bumper of the truck, and I say, I'm ready now.

And Governor Crist came on, and he asked me the simple question, are you still interested in the -- in joining the Florida Supreme Court? And I said, yes, sir, I am.

He says, good, then you need to come to an interview on December 24th, Christmas Eve, at 9:00 in my office. I will interview you again and two other candidates.

So I drove up to Tallahassee the night before, on the 23rd. I arrived around 7:00 and checked into the DoubleTree hotel.

Now, picture downtown Tallahassee, 23rd of December. You could throw a bowling ball down the road and not hit anyone.

>> JUDGE LAUTEN: Right.

>> JUSTICE LABARGA: And as I walked into the room, into the hotel lobby, the poor woman up at the counter, she's kind of like -- she was asleep on her elbow. And I said, I'm checking in. She gave me this, like, are-you-kidding look?

(Laughter.)

>> JUSTICE LABARGA: So they took me up to the fourth floor of my room. There was no one there. I was the only

one in that whole floor. I could hear every crack in that old hotel.

So I took a shower and I figured, let me just relax and go to sleep early. I turned the TV on, and guess what movie was on?

>> **JUDGE LAUTEN:** I have no idea.

>> **JUSTICE LABARGA:** "The Shining."

(Laughter.)

>> **JUSTICE LABARGA:** And that scene where Jack Nicholson is coming in with an ax through the door and, "Here's Johnny!" And that type of thing. And I'm hearing every crack in the hotel. I'm by myself on that floor, and I went and put the chair behind the door --

(Laughter.)

>> **JUSTICE LABARGA:** -- and finally went to sleep.

>> **JUDGE LAUTEN:** Did you get to sleep that night?

>> **JUSTICE LABARGA:** I was nervous to begin with, but that made me even more nervous. But I finally fell asleep, and the next morning I showed up and gave an interview. They interviewed me for, like, two hours.

And around -- I remember Christmas Day -- I mean, New Year's Day -- New Year's Day, I was watching TV with my wife, and the phone rang and it was Governor Crist appointing me to the Florida Supreme Court.

>> **JUDGE LAUTEN:** What did that feel like when you got

that phone call?

>> **JUSTICE LABARGA:** It was surreal. Completely surreal.

And the way it happened -- because he waited until the last possible day that he could appoint me, according to the statute, the rules. And so I get the call Thursday, January 1. Monday, January -- you know, I was sitting on the Florida Supreme Court.

>> **JUDGE LAUTEN:** That's amazing.

>> **JUSTICE LABARGA:** I did not get a chance to say good-bye to my colleagues. I did not get a chance to find a place to live. I drove to Tallahassee. I stayed with some friends of mine who lived there. They were kind enough to find me an apartment that I could rent real quick that was furnished.

And that's the rest. I lived in that apartment for five years. And finally, my wife joined me once I became Chief.

The way I had it working is, I would stay in Tallahassee for three or four weeks at a time and then I would go home for four or five days and then come back to Tallahassee. That's the rotation I had in place for, like, five years.

But once I became Chief, it was not feasible for me to leave Tallahassee that often. So she came up with the two Shih Tzus and we rented a bigger place, and she's up there with me now.

>> **JUDGE LAUTEN:** Great. Great. What are the names of those two Shih Tzus?

>> **JUSTICE LABARGA:** One's name is Mick, after Mick Jagger. And the other one is Tiny, and we inherited him from my wife's mother, my mother-in-law who died, and that was her prize dog.

>> **JUDGE LAUTEN:** Chief, is it fair to say that there is an irony in that you were the shortest-serving District Court of Appeals judge and now you'll be the longest serving Chief Justice since the mid-1800s?

>> **JUSTICE LABARGA:** There's some irony to that. I'll say this, there are some benefits to having served only one day on the Fourth DCA. For one thing, the Supreme Court never reversed me.

>> **JUDGE LAUTEN:** That's a good thing.

>> **JUSTICE LABARGA:** So I have a perfect record. And I think -- I don't think anybody ever beat that one record, as far as serving on the Fourth.

>> **JUDGE LAUTEN:** Chief, let me ask you about an incredible experience for you, for your parents, for your siblings. What life lessons were taught to you by your parents that has best served you as Chief Justice of the Florida Supreme Court?

>> **JUSTICE LABARGA:** My dad, you know, obviously he grew up in Cuba. He had a very good life.

>> **JUDGE LAUTEN:** What did he do in Cuba?

>> **JUSTICE LABARGA:** He was just a worker. He -- we -- the house we lived in had been added on and added on by grandparents and grand -- it's a big house.

He was having a great life. He had all these friends he grew up with. Then he found himself in this country, didn't speak the language.

He sat down with my brothers and me when we were teenagers here in the United States and he said, you know, I can't offer you anything. There will be no inheritance. There's no money. All I can do is help you get an education.

And, you know, he said something that I found to be very profound. You know, he said, American people are really good people by nature. They're fair-minded people. And if you're willing to work hard and you're honest, they'll give you every opportunity.

So I always tell people, you know, I like to think -- you know, I know I work very hard, and I like to think I'm honest. And here I am, his prophecy came true.

So he basically always pushed the fact that we had to -- we had to work hard, that don't expect anything to be given to you. You're going to have to go out and earn it and work at it.

And that pretty much was the model for all Cubans. All my friends were the same way. Their parents came here and

we're hoping Fidel dies soon so we can all go back to our life, but until then, you got to make your life here.

And the one thing that my dad told us is, you know, you're gonna grow up in the United States, and you need to really become an American. You need to assimilate. Don't forget your heritage. Don't forget where you came from. Don't forget your family. Don't forget your language. But you're an American now, and you think like an American and you grow like an American.

So that's -- that's the way my brothers and I handled it, and we've done pretty well with that.

>> JUDGE LAUTEN: I know our listeners can't see it, but just by looking at you, I can tell how important your father and your mother were to you, and that's great.

If you had the opportunity, would you go back and visit Cuba? Have you been back? Do you have any plans to go back?

>> JUSTICE LABARGA: I have not been back. You know, and people ask me that question now that things are starting to open up. And my response, basically, is mixed. Certainly this embargo has not worked for the last 50 years it's been there. And they're still there, and people are still starving and so on and on.

But, on the other hand, look at it from my father's perspective. The people who executed everyone who didn't agree with them, and drove, you know, good, hard-working

Cubans out of the country, those people are still alive and they're still in power. It's difficult.

They were traumatized by what happened to them and the betrayal that Fidel Castro and his people committed on them. So I can see both sides of the coin.

I personally I have no interest in going back to Cuba until I sense that things are improving there. And there are people who are in prison for no other reason than the fact that they disagree with the government and been there for a long time.

>> JUDGE LAUTEN: When you were a boy in Cuba, did you envision practicing law in Cuba or did you have any idea of what profession or employment you might have?

>> JUSTICE LABARGA: I decided to be a lawyer when I was a kid here in the United States because I thought that was the profession that would allow me to promote and preserve democracy. And I give this speech to young lawyers, and whenever I speak around the state, and tell them that we as -- in the legal profession have a wonderful legacy beginning way back from the very beginning.

You know, I believe 24 signers of the Constitution were lawyers. And I think 23 signers of the Declaration of Independence were lawyers.

Think about the work that's been done by lawyers ever since. Think about people like Thurgood Marshall, think

about *Brown v. Board of Education*, think about Abraham Lincoln. These guys were all lawyers and they got us here.

And so -- and really, it pains me to see when lawyers, people who are members of the profession, don't carry themselves the way they should.

So anyway. It's -- I'm very proud to have been a lawyer, and I think we lawyers can make a difference. We can make a difference in democracy and we preserve it. And that's why what happened in Cuba will not happen here, as long as I can help it.

>> JUDGE LAUTEN: So you may have just answered this question, but I was going to ask you, outside of your parents, who are your heroes? And you might have just named some of them, but if you could tell me, who are your heroes, Chief?

>> JUSTICE LABARGA: Well, my biggest hero is Abraham Lincoln. I mean, I don't know that anyone else could have held this country together at that time. And I think he had the tenacity, he had the patience, and I think -- I don't know that anyone else could have held it together better than Abraham Lincoln.

>> JUDGE LAUTEN: I'm going to shift, if I can, back to the present day, and I'd like to ask you this. I can't imagine the stress of your position, the enormous responsibility. You're the leader of the third branch of

government in Florida. You literally make life-and-death decisions as a Chief Justice.

How do you manage your stress? How do you deal with stress? Because, obviously, this position is one of enormous responsibility.

>> JUSTICE LABARGA: It is. We have -- Florida is now the third largest state in the country. We have an extremely large judiciary. We have almost 1,000 judges in our state. Almost 1,000. And our population is growing. Our state is very important, and our jurisprudence in the state is very important.

My job -- I usually deal with over 100 emails a day. It doesn't stop. I can't go anywhere. I don't have vacations. Anywhere I go, I get the emails. There's always something going on in some circuit in some county in the state of Florida. It's always something happening, good and bad.

I like to travel throughout the state because I think it's important that I be seen and that I talk to people. In the communications plan that we have, there's a quote that we got from an opinion that justice, she not always be -- should be done, but it should also be seen to be done.

And I think that's important that people see what we do. I think that's a major misunderstanding on the electorate. And, you know, people in the other two branches, it's very easy to say a very negative thing in a one-sentence

PowerPoint. And for us to explain how it is not true, it will require ten paragraphs, and we'd lose people in that way.

So we have to develop better communication skills and better communication -- communication plan than we have in place now. So that's where we're going with this.

As far as what I do to keep sane, I walk a lot. I used to run, but my knees don't let me do that anymore. But I walk a lot.

And I -- you know, that's pretty much what I do.

>> JUDGE LAUTEN: So, Chief, it sounds like your direct experience as Chief Justice in dealing with the citizens of the state of Florida, and other branches of government, led to the communication plan that you have spearheaded, as well as the long-range strategic plan for our branch that includes community outreach and communication, which is one thing we're doing by this podcast. I hope it fits into your plan.

>> JUSTICE LABARGA: This is perfect. This is exactly what we're talking about.

>> JUDGE LAUTEN: Correct.

>> JUSTICE LABARGA: This and, of course, Facebook and all these other, you know, communications abilities that we have nowadays. We just need to let people know -- you know, the thing about -- say, take, for example, a criminal court.

What the print media and the news media, the television

media, they like to cover the high-profile, juicy murder cases. But if you sit in a criminal courtroom as a circuit judge -- and I did for five years in a major metropolitan area -- those cases are the exception. I can count with fingers on one hand the number of first-degree murder cases I tried in six years in criminal. They just don't happen.

So what really happens in the courtrooms? You know who we get in there every day? We get -- we get somebody's daughter, somebody's son, somebody's nephew, grandson. The next-door kid that just went to a party one night and then got in a car with someone and shouldn't have gotten into and then went to another party, and there was something in that car and they get pulled over and suddenly he gets arrested.

And people make a mistake, do something stupid, and -- these are not bad people, they just had a bad night. And all they need is a judge out there to understand that all I need to do is -- you just fell off the track. I need to put you back on track again. And, yes, you'll go to Harvard or wherever you're planning to go, and you'll be a productive citizen again.

That's what judges do on a daily basis. On a daily basis. That's what we deal with. But the problem is that people out there don't know that's what we do until -- until it happens to them or until it is a relative.

And I know parents walk in and I'm looking at them, and

the view I'm seeing is where is the courtroom for the good kids that just made a mistake? There is no separate courtroom. It's all the same.

And that's what judges do. Judges save more lives, judges put more kids back on track than any other institution, and we do it daily. Daily.

Look at what we're doing with veteran's courts. We're helping people coming back with all kinds of trauma and problems. Look at drug courts, what we're doing with drug courts. How many people with horrible addictions are we saving, putting them back on track, getting them sober, getting them a job?

And that's what judges are doing. And that's not getting out there. They just think we're presiding over death penalty cases and sentencing people to death. That's the exception -- rare exception. And that's what judges do, and I'm proud of what we're doing.

>> JUDGE LAUTEN: Chief, is there any experience that you've had being Chief Justice that you just couldn't have anticipated before you became the Chief Justice of the Florida Supreme Court?

>> JUSTICE LABARGA: No. Charles Kennedy was chief when I joined the Court, and he and I kind of worked together. And then Ricky Polston was chief after him, so I worked with Ricky. So the three of us, we kind of just continued right

along. We worked with each other, and they're helping me now with things.

I go -- I call Charles Kennedy two or three times a day. Now, mind you, he dissents to just about everything I write --

(Laughter.)

>> JUSTICE LABARGA: -- and I dissent to just about everything he writes. But we're very good friends.

And as far as the administration of justice and running the branch, he has some great ideas. So does Polston and Pariente. I call her, too, for advice.

So it was all pretty much -- the main thing right now, in reality, is I want to make sure that we continue to encourage good people to join the bench. Florida, right now, is 27th in the country as far as judicial salaries, despite the fact that we are the third largest state.

From what I'm reading about, you can't even win the presidency without Florida, without carrying Florida. Florida is an important state. We got important cases. They're just deepening the Panama Canal, to bring in larger transport ships, those container ships. And they're going to stop in Florida.

We're bringing in big business, big business. Anytime anyone in business signs a contract, within six months somebody's breaching it and there's litigation. And you need

the courts for those things. It's not just criminal cases and divorce cases.

The business community cannot do without the courts. We -- they need us. And we're there for it and we're working in that regard.

And we need to attract people who are not just prosecutors or public defenders or divorce lawyers. We need people in the business community, people who do business litigation, who know about these complex contracts to also join the Court. But to attract them, we got to do better than 27th in the country in paying judges.

>> JUDGE LAUTEN: Chief, I'm going to switch gears a little bit. You're known as a very thoughtful and passionate Chief Justice, but I've done a little research and learned that you might also be a little bit of a prankster, a good-humored prankster.

Are there any pranks you've either received or delivered on the Court that you're able to share with us or are you going to plead the Fifth on that one?

>> JUSTICE LABARGA: I'm going to plead the Fifth. I do say that a lot of pranks have been pulled on me many times over and over again. But that's okay. You know, I have a good sense of humor, and I'd reciprocate whenever I can.

But the one thing I would say is when I was a circuit judge in Palm Beach County, all -- when I was -- I'm sorry --

a prosecutor in Palm Beach County, all the prosecutors were painting the little offices we had. They were painting them and getting all kinds of prints for the wall. And I just refused to do it.

So they were trying to force me to do it. So every week they would paint one wall a different color. And then they finally painted all four walls with these psychedelic colors that would glow at night, you know? So it forced me to paint that wall.

So that's one prank that was pulled on me. And I'm still trying to find out who pulled that. I have my suspicions. They're judges now.

>> JUDGE LAUTEN: Well, Chief, I want to thank you for your sacrifice and hard work as Chief Justice. I know that it takes a toll on you and your family. And on behalf of the citizens of the state of Florida, I want to thank you for everything that you do, seen and unseen, for the citizens of the state of Florida.

Thank you so much for joining us.

>> JUSTICE LABARGA: Well, thank you very much. And thank you for having me and giving me this opportunity to at least say a few things to the people who want to listen.

>> JUDGE LAUTEN: Thank you.

(Music.)

>> Thank you for listening to "Open Ninth:

Conversations Beyond the Courtroom" brought to you by Chief Judge Frederick J. Lauten and the Ninth Judicial Circuit Court of Florida. Please remember to follow us on Facebook and Twitter for more information about the Ninth Judicial Circuit Court.