# "We Are Called"

## BY MONICA M. MÁRQUEZ

This series explores what it means to be a judge or justice at various levels of the state court system. Authors share their personal journeys to the bench and help others navigate their way to a judgeship.

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fyou've been following this series over the past year, then you are already familiar with the wonderful stories shared by Judge Cynthia Mares (Aurora Municipal Court),<sup>1</sup> Judge Kara Cayce (administrative law judge), <sup>2</sup> Judge Chelsea Malone (Denver County Court),3 Judge Lance Timbreza (Mesa County District Court),<sup>4</sup> and Judge Karen Ashby (Colorado Court of Appeals),<sup>5</sup> describing their personal journeys to the bench. When Justice William Hood and I began working with Karen Hester at the Center for Legal Inclusiveness to create this series, our goal was to encourage students and attorneys from underrepresented communities to become judges.6 Like my predecessors in this series, I will share my personal journey to the bench, describe life on the Colorado Supreme Court, and offer my thoughts about the application process based on my earlier experiences as a nominating commission member and the dozens of nominating commission meetings I have facilitated around the state as an ex officio chair.

### Western Slope Kid

I grew up in Grand Junction, and my childhood experiences instilled a deep love for the outdoors and the small-town way of life in Western Colorado. My younger sister Christine and I played Grand Mesa Little League softball, and I spent a couple of summers in high school and college driving a tractor and picking peaches in Palisade. We spent countless weekends fishing, hiking, camping, backpacking, skiing, and snowshoeing with our parents on the Grand Mesa and in the mountains around the cabin we built near Silver Jack Reservoir south of Cimarron.

My father, Jose Deciderio Lorenzo Márquez, was born in Las Mesitas, near Antonito in the San Luis Valley, where la familia Márquez has farmed and ranched for several generations. Dad joined the seminary straight out of high school and became a Benedictine monk for several years, but (lucky for me and Christine) "Brother Aloysius" eventually left monastic life. He entered Air Force Officer Training School during the Vietnam War and was stationed in Austin, Texas, when he married my mother, Cherry Beverage (yes, that's her name!), a school teacher who grew up in Anadarko, Oklahoma. While Dad attended law school at the University of Texas, courtesy of the Air Force, Mom worked on a master's degree in education, and both juggled school, work, and raising two toddlers.

After completing his military service as a JAG officer, Dad wanted to bring his young family back to Colorado. When he couldn't find work in the San Luis Valley, we wound up in Grand Junction. Dad landed a job with Colorado Rural Legal Services, where he counseled low-income clients. He later served as a Regional Assistant Attorney General and, after a stint in private practice, he became the first Latino district court judge in Grand Junction, and later the first Latino judge on the Colorado Court of Appeals. Along the way, he remained deeply involved in bar association and community activities, and even directed our mariachi church choir for decades. He continues his work today as a senior judge. Mom is a gifted elementary school educator who taught hundreds of children to read over the course of her 30-year career. Together, my parents taught us the importance of family, faith, humility, hard work, education, and public service.

I was not the kid who knew I wanted to be a lawyer at age 6. No way. A judge? Never crossed my mind. I wanted to be an astronaut! (Actually, I really wanted to be a Jedi knight and X-Wing fighter pilot.) But college chemistry blew up that dream (and I never did figure out how to build a light saber), so I eventually turned to other pursuits.

## **Roads Less Traveled**

I took my first step on my winding journey to the bench as a high school sophomore, although I didn't recognize it at the time. My parents always fostered a sense of adventure in me and my sister, so I applied last-minute for a Congress-Bundestag Youth Exchange scholarship to spend my junior year of high school as an exchange student in West Germany. To my parents' shock, I won the scholarship. So that summer, barely 16 years old, I stepped on a plane and suddenly found myself immersed in a new country, living with a new family, and floundering around trying to speak a strange new language. It was the scariest thing I'd ever done to that point. Everything was different: the food, the clothes, the customs.

For the first time in my life, school was really hard. I took biology, physics, chemistry, trigonometry, history, geography, literature (and even French at one point)—all auf Deutsch. It was overwhelming. I was homesick, I cried, I almost quit. My host family, the Kramers, became my saving grace. My host father connected me with a local youth band where I played trumpet, and I learned to play soccer. I was forced to develop new social skills to connect and thrive in my new environment. But slowly I made friends, and over time, I mastered the language. And I didn't quit. It was an utterly transformative year for me.

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When I returned to Grand Junction a year later, I spoke such fluent German, the real German exchange students who came to my high school that year mistook me for one of their own. My family, on the other hand, hardly recognized me (who was this tubby Euro kid with a new hairdo, smoking and drinking, and spewing German slang?). I had begun to see a world beyond Colorado—and my life was forever changed.

I had more adventures abroad in college, including a stint in Berlin during the political chaos when the Wall fell, followed by a few eye-opening months in Kraków, Poland, and a trip to Moscow and Leningrad in the Soviet Union. When I graduated from Stanford armed with my degree in political science, I considered joining the Peace Corps, but discovered they really needed engineers, not social scientists, so I looked for a U.S.based service opportunity. I joined the Jesuit Volunteer Corps in 1991 and again, without realizing it, I took the next pivotal step in my journey to the bench.

For the next three years, I worked as an inner-city teacher and community organizer in Camden, New Jersey and West Philadelphia. I had no idea what I was getting myself into. Camden was especially poor, full of gangs and drugs. As volunteers, we experienced the poverty of our surroundings; we lived in a dilapidated row house and earned \$85 a month. I counted crack vials on the sidewalk every day on my way to the bus stop, and each one of us was mugged at one point or another. During my second year, a Camden JV was shot in the back in a drive-by (he survived).

And oh, teaching was hard. Driving a tractor and picking peaches and hiking and camping in the backcountry did not prepare me for life in the inner city. Beyond my constant collect calls home to Mom, I had no formal teacher training—let alone enough experience to steer a classroom of streetwise kids who had experienced more "life" by age 8 or 9 than I could ever comprehend. It was another immersive experience; it was intense, and it was life-changing. The chorus to our JVC "theme song" of sorts went, "We



Monica and her students at St. Bartholomew Catholic School, Camden, 1992.

are called to act with justice/ we are called to love tenderly/ we are called to serve one another/ to walk humbly with God."

I struggled mightily the first few months, but by the middle of the first year, I realized I'd fallen in love with the kids and with teaching. I taught my kids some Spanish, and they taught me how to turn double dutch. My methods were unorthodox at times—we wrote a smash hit Christmas pageant rap based on the Gospel of Luke called "Yo! 'Twas the Night!"—and I often floundered, but those incredible kids and my time in Camden and Philly taught me more than all my years of formal education.

### The Law

Ultimately, my experiences in JVC inspired me to go to law school, and through a series of minor miracles, I landed at Yale Law. (Some people describe New Haven as a tough town, but coming from Camden, I laughed.) I entered law school thinking I wanted to be a child advocate or work in education policy. I left thinking I'd be a criminal defense attorney. Instead, after graduation, I clerked for two federal judges, Michael Ponsor in the District of Massachusetts and David Ebel on the Tenth Circuit in Denver. My clerkships exposed me to broad swaths of law, and both trial and appellate work, and I realized I was a true law geek; I found all of it fascinating. Judge Ponsor and Judge Ebel shaped my approach to the practice of law and ultimately, my approach to the craft of judging. Both are brilliant, hard-working, and exceptional judges and mentors. I have tried to pass on much of their wisdom to my own clerks.

After my clerkships, I spent a few years at Holme Roberts & Owen, LLP, practicing employment law and commercial litigation. In 2002, however, heeding that inner call to public service, I took a substantial pay cut and moved to the Colorado Attorney General's Office under Ken Salazar to join the Criminal Appellate Unit, where I handled dozens of felony appeals over the next couple of years. I loved full-time appellate work. But after getting pulled into major congressional redistricting litigation, I transferred to the Public Officials Unit under the mentorship and guidance of Maurie Knaizer. There, I represented our



Justice Márquez embraces her father, Senior Judge (Lorenzo) Márquez, after he administers the judicial oath of office, December 2010.

statewide elected officials. I enjoyed a rich mix of trial and appellate work in both state and federal courts and had many opportunities to wrestle with complex and novel legal arguments in high-stakes constitutional cases.

Finally, in 2009, Attorney General John Suthers appointed me Deputy Attorney General for State Services, where I supervised major civil litigation involving nine of 16 executive branch agencies in Colorado. That work touched on everything, from Medicaid and food assistance issues, child care licensing, workers' compensation, PERA, public education, and medical marijuana, to election and campaign finance law, open records, rulemaking, and broad constitutional challenges, to statutes and voter-initiated measures. It was a blast. In addition to Maurie, I had many wonderful mentors at the Attorney General's Office, including (now-Judge) Christy Arguello and (now-Judge) Terry Fox. I was honored to serve both Ken Salazar and John Suthers, from whom I learned a deep reverence for the rule of law and the role of the Attorney General in upholding it.

## The Leap

I loved my job at the Attorney General's Office, and I planned to ride out my career there, when a couple of folks from the Colorado Hispanic Bar Association took me out to coffee in the summer of 2010 and encouraged me to apply for the vacancy on the Colorado Supreme Court created by Chief Justice Mary Mullarkey's retirement. I thought they were nuts. I was 41 years old, there had never been a Latina on the court, and oh, by the way, I am openly gay. It'll never happen, I told myself. But over the next several weeks, that conversation triggered some serious, deep, and honest introspection about my life, my identity, my values, my beliefs, and my motivations. It was flattering to hear someone suggest that I apply. But I wanted to make sure I wasn't just caught up in that flattery without taking a hard look at what the job really involves and why I might want to do it.

In reflecting on all I'd done in my career to that point, I knew appellate work was my true love. Thinking back to my clerkship experiences, it dawned on me that what I loved most about the law was not so much advocating for one side or another, but

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PATENT • COPYRIGHT • TRADEMARK • INTELLECTUAL PROPERTY LITIGATION • INTELLECTUAL PROPERTY TRANSACTIONS instead figuring out the right answer and then explaining that answer in writing. I also realized that I especially enjoyed the challenges presented by novel statutory and constitutional issues I had grappled with before the Supreme Court. The more I pondered it, the more I began to believe I would really love the work, and that I might be good at it.

I also thought about my life experiences to that point and connected the steps along that path: I'd grown up in a multicultural family on the Western Slope; I'd found the courage at 16 to leave my family for a year in a foreign country as an exchange student; I'd been blessed with the opportunity to attend elite schools like Stanford and Yale: I'd chosen to immerse myself for three years in the inner cities of Camden and Philadelphia. I'd worked with and for people of all backgrounds: rich and poor, educated and uneducated, the powerful and disempowered, and ordinary people of all racial, religious, and political stripes. As I contemplated this wealth of life and work experiences, I realized they had cultivated in me a healthy balance of perspectives and, importantly, an open mind that allowed me to view the world (and its myriad legal issues) from multiple vantage points.

After much introspection, I decided to do my homework and make sure I knew exactly what I would be getting myself into if I made this leap. I already knew how hard appellate judges work; I had been watching my dad for years. I reached out to a handful of other Court of Appeals judges I knew, and even three of the sitting justices with whom I was acquainted, all of whom kindly agreed to meet me for coffee or lunch to talk about their jobs. I wanted to hear about the day-to-day realities-the good, the bad, and the ugly; what they enjoyed, what they didn't; how they navigated the transition to the bench; and importantly, what they missed about practicing law. All were candid and gave me plenty to think about. I also consulted Judge Ponsor and Judge Ebel because I trusted their honest assessment of my abilities. And finally, I had



Justice Márquez and wife Sheila Barthel hiking in Patagonia (Argentina), December 2016.

a pivotal conversation with former Supreme Court Justice Jean Dubofsky, who was only 37 years old when she was appointed. She convinced me it was possible to serve well at my age, and that in fact, my comparative youth could be an asset.

I decided to go for it. I gathered a diverse group of friends from my bar association connections, and we met one evening to go over the list of nominating commissioners and find out who might know or have insights into those individuals. Those folks then worked to get the word out to encourage the commissioners to give my application serious consideration. I focused entirely on the application itself. I thought carefully about every detail, including the cases I listed to showcase the breadth of my work, and the individuals from whom I would seek reference letters—a group who collectively could speak to the quality of my advocacy, my leadership skills, and my community involvement. I spent a lot of time writing my personal statement, explaining why I sought the position and describing the skills and insights I brought to the table. It was a time-consuming and emotionally draining process, to say the least.

I was thrilled to get an interview with the commission. I prepared as I would for an oral argument, talking to others who had been through the process, brainstorming as many scary questions as I could gin up and thinking through my responses. As the interview day arrived, I felt prepared and reasonably calm, knowing that no matter what happened, I already had a job that I loved. Mostly I was just proud of myself for giving it my best shot. When Chief Justice Mullarkey called me later that day to let me know my name was on the short list, I nearly dropped the phone. The 15 days that followed were a whirlwind. I was overwhelmed and humbled by the outpouring of support, and although I received well wishes from many high-profile members of the legal community, I was particularly touched by the everyday folks in the office (including the staffers) who stopped me on the elevator or gave me a thumbs-up in the hallway. It was a powerful reminder that every day matters, every encounter matters, and how you treat others matters. Our daily interactions leave lasting impressions, positive or negative, and this process shines a giant spotlight on all of it.

For all my efforts to try to do everything right, I managed to be late (!) for my interview with the Governor. (Hint: Don't show up at the Capitol at 5:05 p.m. for a 5:20 p.m. interview in August—the doors are locked and state patrol has left for the evening.) Swallowing my rising panic, I made a mad dash back to the Attorney General's Office to retrieve my Blackberry (which I'd deliberately left behind) while frantically trying to think of who to call (?), and then sprinted back to the Capitol, where the Governor's counsel greeted me at the door with a mildly amused look on his face. I slid into my seat, sweaty and out of breath, hair surely a mess, and pearls askew. I barely remember the hour that followed, but apparently, I did just fine.

On December 10, 2010, with the permission of the Chief Justice, my father, Senior Judge Márquez, gave the judicial oath of office to me, the new Junior Justice Márquez, surrounded by family and friends in a packed historic Supreme Court courtroom at the State Capitol. As he uttered the last phrase, "upon which I am about to enter," his voice cracked and he raised both arms in triumph. I noted that day that there are singular moments in life that are remembered vividly and treasured forever. That father-daughter moment was certainly one of them.

Although I had mixed feelings about the "gay Latina" headlines that followed, I came to recognize that, both for the gay community and the Latino community in Colorado (particularly Latinas), my appointment marked a meaningful day in state history.



Justice Márquez and her parents, Cherry and Judge Márquez, with Justice Sonia Sotomayor at the Ralph Carr Judicial Center, May 2013.

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I am also deeply aware that my family and countless other individuals contributed to my success as an attorney, and more important, my growth as a human being. A small handful have been trusted companions and witnessed my struggles at various points along the way. And of course, my beloved spouse, Sheila, has accompanied me every step of the last 20 years, patiently enduring all my many faults and still cheering me on.

## Life on the Court

The Colorado Supreme Court is the court of last review for issues of state law. Seven justices review and hear all matters en banc. The biggest difference between our work and that of the Court of Appeals is that much of our docket is discretionary, and we spend a significant amount of time deciding which cases to hear on the merits. We review well

over 1,000 petitions for a writ of certiorari every year and accept fewer than 10% of those cases. We also receive C.A.R. 21 petitions for relief (approximately one every business day of the year), election law matters under CRS §1-1-113, certified questions of law from the federal courts, petitions for habeas review, and occasionally, interrogatories from the Governor or General Assembly. In addition to our discretionary docket, we automatically review death penalty cases, Crim. P. 4.1 interlocutory appeals, habeas appeals, PUC rulings, Title Board matters (involving ballot initiatives), and attorney discipline and unauthorized practice of law (UPL) cases from the Office of Attorney Regulation. Unless a justice is recused from a case, all justices review and vote on all matters. As a general rule, it takes a majority (four votes) to take action in a case (affirm, reverse, accept jurisdiction,



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etc.). However, only three votes are required to grant certiorari review. In addition, the court must agree unanimously to dismiss a case as improvidently granted, or to affirm a Title Board or an attorney discipline appeal without opinion.

It is an extraordinary volume of work. Because we issue only 70 to 100 written opinions per year in cases on the merits, much of the work on the other 1,200 to 1,300 cases goes on behind the scenes and results in one-line orders like "Petition for writ of certiorari denied." I did not fully appreciate before I arrived the dozens of hours of work (including research, record review, drafting and editing of internal memoranda, and discussions) that can go into that one-line order.

I also did not appreciate all the administrative responsibilities the justices shoulder in addition to our adjudicatory responsibilities. Each justice serves on several committees and leads special projects. For example, I am one of two liaison justices to the Office of Attorney Regulation, a role that encompasses screening a steady stream of motions regarding disciplinary and UPL matters and attending committee meetings on various aspects of attorney regulation, including bar admissions, CLE, and the Rules of Professional Conduct. I am also chair of the Water Court Rules Committee and previously served as the liaison justice to the Public Access Committee. I spent years on the committee that created our wonderful Learning Center at the Ralph Carr Judicial Center (and now serve as the liaison justice to the Learning Center), scripted a new training video this past year for judicial nominating commissions, and recently launched a Task Force on Lawyer Well-Being, among other projects. My colleagues are equally busy serving as liaisons to a host of rules committees, our Access to Justice Committee, judicial education, and Courts in the Community-the list goes on and on.

Our job demands teamwork and collegiality. As Justice Boatright likes to describe it, being on the Court can feel like being married to six other people. Group decision-making can be exhausting work. Naturally, we often disagree, and it can be hard to "get to four

[votes]" in some cases. As drafts start flying and conversations deepen, I have seen majorities flip; cases that start out 5-2 to reverse and end up 7-0 to affirm; and even cases that seem hopelessly deadlocked that ultimately go out 6–0. This means the deliberative process can take time, and the final opinion in a case may not begin to tell the story of the collective work it took to get there. Patience, respect, humility, and a sense of humor are a must, along with a willingness to seek common ground where possible. I've been blessed to work with nearly a dozen different justices over the last eight years, all of whom have been terrific. I have learned important lessons from each of them.

I mention these aspects of the job, because of course we review briefs, hear arguments, and research and write opinions. But there is so much more to the role of a justice. To be sure, I love the substance of the work, the breadth of issues we confront, and my wonderful and exceptionally talented colleagues. I also enjoy mentoring my law clerks, helping them develop as attorneys, and passing along what wisdom I've gained in my own journey. I truly love what I do, and every day of the last eight years I have served on the Court I am reminded just how blessed I am to be here.

My experiences over the last eight years have also made me reflect on why I believe diversity in the judiciary is so important. By "diversity" I mean race, ethnicity, and gender, but also sexual orientation, religion, age, and whatever life or professional experiences that an individual brings to the bench. I've come to believe that diversity in the judiciary strengthens the rule of law. On a macro level, a judiciary that reflects the communities we serve strengthens public perception that justice is truly equal. In turn, that perception promotes respect for the decisions rendered by the system. A diverse bench makes a real difference, to litigants and to the community. On a micro level, I've come to believe that diversity on the bench enriches the deliberative process-particularly on an appellate court. A healthy balance of backgrounds and life experiences among the judges on the court leads to a healthy balance of perspectives around the conference table, and a richer and fuller discussion of the issues presented. And that leads to better decisions.

## **Advice for Applicants**

As an attorney, I served as a commissioner on the Second Judicial District Nominating Commission. As a justice, I have served as ex officio chair on dozens of nominating commissions around the state. In these two roles, I've interviewed hundreds of candidates for judgeships in the last decade. A surprising number of candidates haven't thoughtfully explored their motivations for applying, and instead seem swept up with the "idea" of being a judge without any solid grasp what the job entails or the challenges it presents. Many have simply described their decision to apply as "the logical next step" in their career. (I wish I had a dollar for every time I have heard that in an interview.)

In my experience on the commissions, the candidates who are successful have thought carefully about why they are applying, and what they would bring to the position. They have done their homework. They sit in on proceedings to familiarize themselves with the dockets. They know their strengths and admit their shortcomings, and they have developed a concrete game plan to get up to speed in areas in which they have not practiced. They have talked with judges in that district and have a realistic understanding of the challenges of transitioning to the bench, including the caseload pressures and the isolation. They have proofread their application, thought carefully about their personal statement, and rounded up solid references. During the interviews, they make eye contact, keep answers from rambling, and avoid legalese (bearing in mind that more than half of the commissioners are non-attorneys). Above all, they are candid, thoughtful, and genuine.

Of course, many candidates do everything I have just described and still fail to make the short list. Much of this process is about perseverance. (Our Chief Justice, Ben Coats, applied 12 times!) Ask for honest feedback from your mentors, references, and if you are comfortable doing so, the justice who chaired your commission. He or she cannot divulge details of the commission's deliberations but may be able to offer pointers.

Finally, the Bench Dream Team that Justice Hood and I co-chair through the Center for Legal Inclusiveness has a list of diverse judges who are willing to meet for coffee or talk over the phone about their jobs and the application process. Feel free to reach out to us or the leaders of the affinity bar associations to set up a meeting with someone on that list. In addition, Judge Terry Fox and Judge Gary Jackson co-chair the Candidates Subcommittee of the Bench Dream Team, which provides mentorship opportunities for diverse candidates who are seriously applying for judgeships. Our bench has a long way to go before it reflects the diversity of the communities it serves. So go for it! We need you. 💷



**Monica M. Márquez** is a Colorado Supreme Court Justice. She serves as a liaison justice and chair of several court committees. She is a longtime member of the Minoru

Yasui Inn of Court, served as a board member of the CHBA and LGBT Bar Associations, coached mock trial at La Academia, and mentors a young Latina in the Law School Yes We Can program.

**Coordinating Editor:** Justice William W. Hood III, william.hood@judicial.state.co.us

### NOTES

1. Mares, "Becoming a Colorado Municipal Court Judge," 46 *Colorado Lawyer* 20 (Dec. 2017).

2. Cayce, "My Experience as an Administrative Law Judge," 47 *Colorado Lawyer* 22 (Apr. 2018).

3. Malone, "My Journey to the Bench: From South Korea to the Crow Reservation to Denver County Court," 47 *Colorado Lawyer* 20 (Feb. 2018).

4. Timbreza, "Be You," 47 *Colorado Lawyer* 22 (June 2018).

Ashby, "My Meandering Path to the Bench,"
47 Colorado Lawyer 14 (Aug./Sept. 2018).

6. Hester, "Introducing 'You Be the Judge,'" 46 *Colorado Lawyer* 29 (Nov. 2017).

7. Haas, "We Are Called" (c. 1988).

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