

Welcome to Civil Discourse. This podcast will use government documents to illuminate the workings of the American Government and offer contexts around the effects of government agencies in your everyday life. Now your hosts, Nia Rodgers, Public Affairs Librarian and Dr. John Aughenbaugh, Political Science Professor.

N. Rodgers: Good morning Augie.

J. Aughenbaugh: Good morning, how are you?

N. Rodgers: I'm a little sad today, how are you?

J. Aughenbaugh: Likewise. So I think both of us are a little sad. 'cause, uh, we are recording this episode, uh, a mere few days after the passing of Supreme Court Justice Ruth Bader Ginsburg. Um, so today's episode is going to be about Justice Ginsburg. Uh, what was her legacy? Both before and on the court? If we have time, we'll probably get to what will be the impact of the vacancy on the court on the upcoming fall elections? Um, and then, if we have time. I would like to speak a little bit about something that I always admired about both Justice Ginsberg and Justice Scalia. So, uh, listeners, if our tone seems to be a little somber this morning? Um, it's because I think we knew at some point we would have to record this episode. Justice Ginsburg was 87, um, she had suffered multiple bouts of cancer. Um and so we knew at some point, if we were still recording the podcast, uh, there would be an episode about Justice Ginsburg. But, uh, I don't think either one of us, uh, expected that we would have to do so. A mere six weeks before the fall elections.

N. Rodgers: I have to say I shouldn't be surprised because the last, um death on the Supreme Court that caused consternation was her best friend Scalia, so it's not surprising to me. I guess in some way that that they managed to align that up somehow, metaphysically, uh, for it to be, um, for instance. I, I had hoped that I would. That I would be considerably older by the time we had to record this episode.

J. Aughenbaugh: Yeah, for our listeners who don't follow the Supreme Court closely and shame on you for not doing so, yeah.

N. Rodgers: We are judging you. In case you're wondering. And it's silent judgment most of the time, Yeah.

J. Aughenbaugh: In my job as I joke with my students, um, not all of you will become a spring court aficionado like your professor is, but you should be.

N. Rodgers: Well, you should learn to fake it publicly, OK.

J. Aughenbaugh: But for those of you who don't follow the court whiny is referencing as that in 2016. In February of 2016. Um, in fact, I think it was. Oh Valentine's Day weekend. Scalia died while on a hunting trip, and it led to the, uh, infamous, at least according to Democrats., stolen Supreme Court seat because President Barack Obama nominated Merrick Garland to replace Justice Scalia and the Senate, Republicans refused, uh, to consider the nomination.

N. Rodgers: Under the grounds that it was an election year and they felt that the new president should be the one to seat the new justice and the current Senate leader, who was also the Senate leader, then has changed his mind and decided that they should see to justice as quickly as possible under...

J. Aughenbaugh: Oh yeah, the hypocrisy here are both political parties right now. OK, is that fever pitch. Yes, yeah. So you, you get the the Senate Republicans, once again in the majority saying that they will OK consider whoever the president nominates. You have Democrats saying, well, Trump should not nominate somebody even though Barack Obama went ahead and nominated somebody OK during an election year. So I mean the the hypocrisy of both political parties is at fever pitch is. As I explained to my students yesterday? OK, nobody's coming out of this with clean hands.

N. Rodgers: Oh, not very funny. Looks bad. Yeah, only person who doesn't look bad right now is Justice Ginsberg. And Justice Roberts, who wrote a very kind statement about the the pain the court was in, but the hope that that, um, the that people would follow in her legacy of caring deeply about social justice and social equality. So I I thought he did a... J Rob came through um and did it. I thought a nice job with that it's hard. I would assume to find the right tone with that because he doesn't want to be political. He doesn't want to be part of the fracas that's going on across the. What is it, across the big concrete barriers on the other side of the street? He wants to stay out of all of that.

J. Aughenbaugh: For every remaining justice on the Supreme Court? OK, it's particularly difficult, because this is a person who in most instances they've worked with for years, and even if they disagree with her, and by the way Johns or John Roberts. OK, most Supreme Court terms disagreed with her, you know, roughly you know 70 to 75% of the time, right? But you know, they work with these people. You know, as I tell my students, this is a small group, collegial body. Um, if you have to work with the same folks year after year in a small group, OK, you basically got a fundamental choice. Either you try to get along, or. That's a miserable experience every day. Yeah, OK every day.

N. Rodgers: Any given time there's only like 12 Supreme Court justices alive, like it's an incredibly small number, small number. It is along the lines of the presidency. Right? Like there yeah aren't a lot of living presidents at one time. There are not a lot of living Supreme Court justices at one time and most people don't retire. They pass away.

J. Aughenbaugh: And they're all aware. Of what Ginsberg had to go through. I mean, and I think this is a really good starting point. OK, for those of you who don't know. Um, you know, Justice Ginsburg? Um, and I'm not going to do the full biography here. You can go ahead and look up her full biography, but she would have been an important figure in American legal, you know, the American legal regime or society. Even if she had never been, uh, nominated to serve on the federal judiciary. Um, what? She had to go through st to get her law degree. OK? And then what she suffered in regards to employment discrimination because she was a woman. OK, was very customary of the 1960s. OK, you know. She attended Harvard, Uh, with her husband she basically took care of him as he suffered through a bout of testicular cancer. OK, this is when she had a baby to take care of and she was in law school. Then he graduates, gets a job in New York and she does what many spouses do, particularly at that time, female spouses. She followed him to New York, OK, finished her law degree at Columbia, finishing first in her

class, OK, and then she couldn't get a meaningful job at a law school even though she graduated from an Ivy League Law School first in her class.

N. Rodgers: They were... I think she was offered secretarial positions.

J. Aughenbaugh: Yeah, she like O'Connor she...

N. Rodgers: Why should we hire? Why should we give you a man's place?

J. Aughenbaugh: Yeah, because in in part the part in part the thinking was at some point you're gonna stop working. To go ahead and have more kids, that was what the expectation was, right? And then.

N. Rodgers: You'll be the one to stay home and take care of them.

J. Aughenbaugh: Yes. So she eventually takes a full time job at Rutgers Law School. Now nothing. I'm not disparaging records law school, right, but at the time Rutgers law school? OK again, this is a person who graduated first in her class from Columbia. OK, and she's taking a law school job at Rutgers University. That was where she could get full time employment.

N. Rodgers: And then had to lie about being, her second pregnancy she had to hide. Yes, for second pregnancy to get her contract renewed, yes borrowed clothes. That didn't fit her so that she could pretend that she was just getting a little weight. Right like so she can get her contract renewed because if you woulda had it if she'd had a baby. If they had known that was coming, they would not have renewed her contract.

J. Aughenbaugh: After a few years of workers, after a few years of Rutgers, she then volunteered to head up a new project with the American Civil Liberties Union, the Women's Rights Project, and under her leadership, and also her arguments, written briefs and oral arguments in front of the Supreme Court, she fundamentally changed how the classification of gender was treated in American law.

N. Rodgers: Wait, I want to ask you a quick question about something you just said. So she was a member of the Supreme Court Bar. Which is a relatively elite group of people, right? Just. Generally, there's not a whole bunch of people admitted to the Supreme Court Bar...

J. Aughenbaugh: You're kind of, sort of jumping ahead here, Nia. And yeah because you don't have to be part of the Supreme Court bar unless the Supreme Court first takes your what? Your case. OK, but when they took the first case that she argued which was, I want to say it's Reed versus Reed. Yep, 1971, at that time, OK, there were next to no women who had been admitted to the Supreme Court Bar. And the general rule is unless you're part of the Supreme Court Bar, you don't get to argue oral arguments in front of the court. It's just like any State Bar. Um, in regards to. Filing a lawsuit, Um, and you know, making the argument in front of a state court. If you're not a part of the bar, then you usually have to have with you somebody who has been admitted to the State Bar. OK, that was highly unusual. Highly unusual. OK, that you know she was, you know. She became a member of the Supreme Court Bar. OK, now today. The numbers are still overwhelmingly male to female in regards to the Supreme Court bar, but it's not as unusual. OK, it's not as unusual. Right? So breaking ground just by being there there making yeah, right? I mean she was breaking ground when she was at Rutgers Law School and she

became a tenured, you know professor, there were very few tenured female professors in all of higher education in the United States, but particularly law schools. Right, particularly law schools.

N. Rodgers: Well, she was undeniably brilliant. I mean, I don't think that they could have that. They could deny her brilliance. Yeah, so's pardon me listeners, despite the fact that she was a woman.

J. Aughenbaugh: Well yeah, I mean in in in that's all and that was always part of her life experience, right? OK, um, you know, not only did you have to go ahead and demonstrate that she was as smart as men. OK, she had to go ahead and do so in spite of her gender. OK, in spite of her gender. Um, I mean, what a terrible burden? OK, to have to encounter? Yes, you know you know. First you gotta go ahead and satisfy you, know basic, right? You know credentials you know you know. Do you have the degree? Are you smart enough, OK, um, do you understand legal arguments? Can you make legal arguments? But then you also gotta go ahead and say yes, I can do all of this. And Oh yeah, by the way. Not for nothing. I am a woman. OK. But she changed how gender was viewed in American law. And her basic argument was this OK? Gender should be a suspect classification. Courts should be suspect of any law or regulation that treat the genders differently. And as we were talking before we began recording this morning, Nia, you know, really picked up on. Um, uh, something about she did something with her strategy that was just brilliant. When she was arguing these cases in front of the Supreme Court, she frequently brought cases where men were treated differently than women simply because they were men. And it forced the justices to come to grips with how gender was frequently used as a disqualifying condition. OK. So you know the the classic example about this was the Frontiero versus Richardson case from 1973. The military had a rule, OK, um, that benefits could only be given to females and children, because the assumption was OK, most members of the military would be male. So if they died or they got injured, OK, became incapacitated, whatever the case may be OK, the benefits OK could only be given to wives and children. And in the Frontiero versus Richardson case, OK, you actually had a female service member whose husband was denied benefits because of his gender. And she forced the court to go ahead and say Hey, Wait a minute here, that's wrong. OK, well if it's wrong in this instance because the man was being discriminated against how can laws to go ahead and treat women OK the same way? How can they be constitutional? So by forcing an all male court to take a look at how some laws discriminated against men, it opened their eyes to all the ways in American law that women were considered second class citizens. Now what Ginsburg hoped for was that gender would be, that would be treated the same way as race. In American law, since Brown versus Board of Education, any law or regulation that uses race as a category, OK, is, received strict scrutiny, meaning, uh, the government has to show 1st, it serves a compelling interest. Second, it is narrowly tailored the law or a program is to achieve that compelling interest. Now, lawyers like to joke OK, strict scrutiny is, if you will, strict in theory and fatal in fact. Because when it gets applied most if not all laws are deemed unconstitutional 'cause they can't pass strict scrutiny. OK race in most instances is just excuse my language, a bullshit classification OK?

N. Rodgers: OK, it's irrelevant to the to what you're trying to achieve.

J. Aughenbaugh: Achieve, that's right, Ginsberg wanted the same for gender. And she almost got there but she could not, she could never get the 5th vote on the court. Instead what the court came up with is

what's called intermediate scrutiny. OK. Intermediate scrutiny. Basically, with intermediate scrutiny, the court asks of the government, can you show that there is a legitimate, not compelling but legitimate interest to treat the genders differently? And is the law or program rationally related to that legitimate purpose. OK. So it's not as severe a standard as strict scrutiny. But it is more severe more exacting than the standard that's used for every other law, which is known as the rational basis test. Basically, listeners. Most laws government regulations - OK all the government has to show if it is challenged in court is that there was some rational basis for the law or for the regulation.

N. Rodgers: We didn't just make it up, there was actually. We did have a reason.

J. Aughenbaugh: We did have a reason it may not be the best one. It may not even be the most convincing to the court, OK?

N. Rodgers: But there was a reason.

J. Aughenbaugh: There was a reason, OK. And Nia, I'm just going to mention one more case. OK, and it's one that I teach all the time in constitutional law. Craig versus Boren 1976. Oklahoma passed a law that raised the drinking age for males. From 18 to 21. Because the state of Oregon (sic: Oklahoma) OK concluded that young males were more likely to drink and then get behind the wheel of an automobile. Which then led to more accidents. So Oklahoma said OK, we have a good reason here we have a legitimate reason to treat males differently than females. OK. Now Craig, ok, who wanted to drink when he was 18, OK, and couldn't in Oklahoma challenged the law. OK, it goes to the Supreme Court. And the court used intermediate scrutiny to rule against Oklahoma because basically the court concluded OK. There was only what was it like 1/10th of 1% difference between males and females. Drinking and getting behind the wheel. So the statistical difference was so minuscule that according to the Supreme Court, there was no good reason to treat the genders differently. As I think the majority opinion, I think written by Justice Brennan concluded. You know, here's what we found out. Young people do what? They do stupid things with alcohol OK, and it doesn't matter genders. Yeah, it doesn't matter if you're male or female, right? It doesn't matter right? But again, it's because of Ginsburg's, if you will legal strategy and arguments in front of the court that all of a sudden gender became a suspect classification. If she had done nothing else, Nia, OK, she rewrote constitutional law as it relates to the genders. OK, that's a stunning accomplishment. I mean, that's what Thurgood Marshall did Uh, with segregation, right? That's what Louis Brandeis did at the turn of the 20th century in getting courts to focus on the impact of the law, even if none of those folks became Supreme Court justices they would have had this huge impact, OK, on American law. But then she gets nominated to serve on the DC Circuit Court of Appeals by Jimmy Carter in 1980, and Oh yeah, by the way. She was nominated and she was voted on after Carter lost the election.

N. Rodgers: Like before we get there can I? Can I bring up a small anecdote, but I think says a lot about her as a person? So when she was teaching at Rutgers and she's doing this ACLU's around like she's doing all of this at the same time because there were transition periods there. Her son apparently had problems at school. And so the school would call her every time he got into trouble and it was for little things, but they were calling her all the time and she finally said he has two parents alternate calls, call

his father, then call me and somehow the calls stopped because what was important to call her about wasn't important to call her lawyer tax lawyer husband about right. It was the it's that kind of thing that she was trying to change. This idea that somehow her work wasn't as important as his work, yeah, when what she was doing is what you're talking about, this phenomenal sea change in how women are viewed in the workplace. Like you can no longer be fired for being pregnant. That's not OK.

J. Aughenbaugh: Like by the way Nia. That attitude still exists in schools. You know, without going into too many details about my own personal life, um, I share custody of my 8 year old daughter. If something happens to her, even on the days that I have custody, OK, and even though the school has been told, OK? That on these days Mackenzies father should be called. They always call her, call Mackenzie's mother first. The attitude still exists. OK, even though I go to all the events OK, I participate in all the parent teacher conferences. OK mackenzie, if you listen to her talk, watch her behavior. OK, she is, you know amalgamation a combination of both her mother and quite obviously her father. OK, it doesn't matter. OK, there is still that bias. OK, that women's work is less important and that the mother is the if you will, primary caregiver. It still happens.

N. Rodgers: It does, but it happens less.

J. Aughenbaugh: OK, fine, fair enough.

N. Rodgers: Yeah, I think that that there's like.

J. Aughenbaugh: I I don't. Know 'cause you know, I I I am the uh, I'm a child of a divorce, you know, uh, of a divorce, so there was only one parent to get called, OK?

N. Rodgers: Strong single women but, but I mean when she entered.

J. Aughenbaugh: I understand your point.

N. Rodgers: Yeah yeah, when she entered the fray being fired for being pregnant was normal, like that. Oh well, we have to let you go because you're clearly gonna stay home and have more babies and blah blah blah blah and now, that's actually illegal. You can bring a lawsuit against your institution and say you can't discriminate me, discriminate against me based on the fact that I have to be the one to birth the child versus my husband, who does not have to be the one to birth the child. Like, men were not fired for being fathers, but women were fired for being mothers. So I I just think she... That's an amazing contribution that's happened in my lifetime. I was born in in 1967. I know I'm 1,000 years old, but um, and just in my lifetime women have. Women have incredibly benefitted from people like Justice Ginsburg and Justice O'Connor and the other women who were fighting for that sort of. None of women are smart. Women can do these things, and they should be allowed to do these things 'cause they have something to say. Um, I I anyway, it's just it was a telling thing to me that that once she told them to do that, the calls stopped because they didn't want to bother her husband with those things. Well, yeah, don't bother me with them either. If it's serious, call me if it's not. Yeah. Um, but she, so she ends up in the federal court system. First. She you don't leap to Supreme Court. Does anybody ever just leap to the Supreme Court or do they mostly serve in a federal position in some way?

J. Aughenbaugh: Uh, the The modern practice is, um, you gotta serve either as a state Supreme Court judge or a lower federal court judge OK? You know there have been some noteworthy exceptions to that. I mean, a Elena Kagan, who's currently on the Supreme Court, was never a judge. On the other hand, she was the solicitor general for the Obama administration, which meant she, you know was the administration's primary legal advocate in front of the Supreme Court. So I mean, she argued, uh, a number of cases in front of the Supreme Court. Um but. There's actually a parallel there between Ginsburg's experience and Kagan's experience. Uh, when Ginsburg was nominated by Jimmy Carter, President Carter to serve on the DC Circuit Court of Appeals, she was, she had no judicial experience. Um, but she was nominated to what most scholars believe is the second most important federal court in our country. Uh, the DC Circuit Court of Appeals hears all the appeals of what federal agencies do. Not all of them, but most of them. Why? Because most federal agencies are headquartered in DC, OK, um, and it's a... It's an important court, I mean Ginsberg, Scalia, Thomas, Roberts, Brett Kavanaugh, they all served on the DC Circuit Court of Appeals. It's, it's considered, you know one of the the one of the best if you will, uh, grounds to jump up to the court. OK, OK so she gets on there in 1980, Um and um served on the DC Circuit Court of Appeals until 1993, when Bill Clinton nominated her to replace Byron White, uh, the subject of my dissertation. Uh, when Byron White decided to retire. Now you want to know you want a good sign of how the nomination process has changed? The vote to confirm Ginsburg to sit on the Supreme Court was 96 to 3.

N. Rodgers: OK, and an abstention.

J. Aughenbaugh: Yeah, there was an abstention, OK.

N. Rodgers: No, I I don't have an opinion about this Supreme Court nomination.

J. Aughenbaugh: Or or it could have been this.

N. Rodgers: Or I know her and I can't...

J. Aughenbaugh: Or the vote was so overwhelming that there was a senator who was sick or there was a, you know, a Senate vacancy. But my larger point here is. Everybody knew she was liberal.

N. Rodgers: Right, but before anyway.

J. Aughenbaugh: OK, but her qualifications were so obvious OK that even hardcore Republicans, hardcore conservative Southern Democrats were like yes, she's you know, qualified, right? There's nothing about this woman that is not qualified today. We can't. Even go ahead and get OK on, you know on folks like you know I, I'll just give examples. Elena Kagan and John Roberts, both of them had well over 30 votes against them. Elena Kagan and John Roberts.

N. Rodgers: We couldn't get. I suspect we could not get a 96 vote on mosquitoes are bad.

J. Aughenbaugh: Yes, I agree with you. It is become that hyperpolarized.

N. Rodgers: Right it it would be ridiculous. We like like can we all vote that you know? That I don't know that a comet hitting the Earth is a bad thing, and there would be 30 votes or not. You don't know that

comets might be wonderful. What are you talking about? Yeah, dinosaurs remember extinction but yeah, so so it is a pretty... It does say a lot about her and their respect for her. Their respect for her mind, their respect for her.

J. Aughenbaugh: OK, in in in everybody knew she was going to be a liberal right? I mean it would have been a huge shock if she had turned out to be even a moderate OK.

N. Rodgers: Might have been hilarious so she'd gotten on the court. Have been like, Nope, Nope to all the liberal stuff that everybody would have freaked out.

J. Aughenbaugh: Um, while she was on the court, uh, this was a court, um, that numerically um has been controlled by Supreme Court justices appointed by Republican presidents. At no point while she was on the Supreme court, were there a majority liberals. You know, uh justices appointed by Democratic presidents, OK?

N. Rodgers: Oh really, in the entire.

J. Aughenbaugh: Entire time she was on the court, she was at most one of four liberals, OK, or? You know, four justices appointed by Democratic presidents. So. Most of her, Nia, most of her significant opinions, OK, were written in dissents, and as I like to joke with my students OK, she like her, good buddy Justice Scalia on the other side of the ideological spectrum, most of their noteworthy opinions were written as dissents.

N. Rodgers: I have a question about that. Yeah, rather so she made a statement at some point that. In relatively recently that. She that she would not outlive her dissents right? Like that her dissents would make someday make changes to the court, and I think you've said that too, that sometimes it takes a little while for a dissent to kind of. Kind of ferment and grow, but then at some point it becomes a way that the court can change again. So do you think that will be true with her legacy?

J. Aughenbaugh: Um?

N. Rodgers: Or is it just too hard to predict because?

J. Aughenbaugh: It's too hard to predict. I mean, in many of the cases where she wrote a dissent, it was five to four, you know, so you could argue. Um, that you know a couple deaths, retirements? OK, while the president is a Democrat and the Senate is controlled by the Democratic Party, then you could see some of her dissents being dusted off by a new Supreme Court majority that says. You know, as justice Ginsburg wrote in dissent in blah blah blah case. OK, that could happen. On the other hand, OK, um, you know. Some of the dissents that end up becoming majority opinions don't happen for you know, forty fifty sixty years. OK all underway. Yeah, it's a long time wait right? Um, so I mean, it really does depend. I mean, a lot of it depends on you know who's on the court right? Who's on the court, um? Um, you know, uh, uh, you know when William Rehnquist, writing in the 1970s, um, where he was, frequently railing about how broad Congress' Commerce Clause Authority was. He was writing as a solo dissent like nobody else on the Supreme Court agreed with him. By the time he left the court, there was a narrow

majority of the court. That said, Yeah, there's something to what you said in the 1970s. That happens very infrequently. Nia very infrequently.

N. Rodgers: OK, well just doesn't move that quickly. In real life, No.

J. Aughenbaugh: No, I mean that's the thing, and I tell students this all the time. If you think going to court to get policy change is quicker leads to more decisive policy change than going through the legislative bodies or even the executive branch, OK, you're going to be frequently wrong and frustrated. Because of anything that this country's history is demonstrated, is that changing the law takes decades, if not generations.

N. Rodgers: Yeah, when you mentioned your, your case earlier where he was 18 and he wanted to be able to drink, I thought well, shoot by the time that gets to the Supreme Court he will be able to drink. It'll take forever.

J. Aughenbaugh: In part, listeners, what Nia is pointing to, is that just the administration of court cases takes a while. Appeals take time. OK, but my larger point is, you know, and this is slightly off target, but since we're talking about Ginsburg really, it isn't the notion of privacy. Nia, the first time, privacy as a legal concept was written about in a law review article, was at the turn of the 20th century. OK, we don't get the Supreme Court acknowledging a right to privacy for first married couples until 1965. That's 6 plus decades. OK. A woman's right to choose doesn't come for another eight years after that. OK. So if you think about the notion of privacy, a right to privacy, which, by the way, what the Supreme Court went ahead and said a right to privacy meant in the 1960s and the 1970s is grossly different than what Louis Brandeis as a private attorney, was arguing in Harvard Law review at the turn of the 20th century. OK, but again, that's the length of time it takes for legal concepts to take root. For people to start making arguments about them and then either have legislative bodies or courts, go ahead and say yes. That makes sense.

N. Rodgers: What makes sense too? Because you have you very rarely. Do you have abrupt cultural change? Yeah, yeah. Cultural change is a slow process. What I mean the the and this is, um, well it's just I think that. Isn't there something about the Ark of justice? Is incredibly long, but it bends to it bends towards. Um? Oh, I've lost the quote now, but anyway, um, so she. So she serves on the federal court. She's, uh, she's she gets her. She passes her nomination with 96 votes, which again, as we note, shockingly, because there's absolutely no way anybody could get 96 votes for anything now. Um? And then she serves on the Supreme Court and she becomes deeply close to Antonin Scalia in a way that I think people were very surprised by because they were polar opposites politically, would you not say? In my mind, he's conservative, he's...

J. Aughenbaugh: Well but politically, ideologically, but really, their friendship started on the DC Circuit Court of Appeals.

N. Rodgers: Oh really, so they served there together. I didn't know that.

J. Aughenbaugh: They served their together right? In fact, when Byron White retired, um Scalia, in a conversation with a Clinton administration higher up, went ahead, and uh, explicitly suggested that the

Clinton administration, uh, consider Ruth Bader Ginsburg, even though they were already different at that time.

N. Rodgers: Was he on the Court at that time?

J. Aughenbaugh: Yes.

N. Rodgers: OK, you should put her on the Court. She's amazing.

J. Aughenbaugh: Oh hey, by the way, uh? Scalia also went ahead and suggested to the Obama administration that they pick Elena Kagan. OK.

N. Rodgers: He liked feisty opposition women.

J. Aughenbaugh: oh. I mean, he loved to argue, right? He loved to argue, OK, but you are pointing to one of the the great friendships of polar opposites in the history of the Supreme Court. He's loud. He's brash. He's charismatic. Ruth Bader Ginsburg - if you ever listened to an interview with her even before you know the last few years where she, you know, frequently spoke very softly, almost in a whisper. I mean, even you know. When she was younger, she was not loud. OK, she was quiet. She was determined. She's this very small individual. I mean, Scalia wasn't much taller than her, but because of his personality, it seemed like he was this, you know, big person who just filled the room. So personality was different. Ideologically different.

N. Rodgers: OK, well, an apparently Justice Ginsberg paused quite a bit before she would answer a question. She would stop and think, and be measured for the most part, although she kind of boogered up when she spoke about Donald Trump. But yeah, and she apologized, right? She spoke off the cuff and. I'm not, I'm sure she was thinking and This is why I don't do this, but. But she was that sort of, or at least I'm given to understand in interviews that reporters had to be patient and wait because she was thinking through things, whereas Scalia was. I mean, he just answered like Bang Bang Bang Bang Bang, right. Sometimes stream of consciousness he would work you through his thought as he was answering. So even their, even their speaking styles were different, was opposite of each other.

J. Aughenbaugh: But he respected her intellectually. She respected him intellectually. She is on the record as saying that, um, other than her husband, the person who could make her laugh the most was Scalia. OK, they had shared interests. They both loved opera. OK, they both loved the law. OK, it's quite obvious. Um, they spent.

N. Rodgers: They both like to argue right? Like when they wrote dissents, didn't they often give him to each other early to so the other could make arguments, yeah.

J. Aughenbaugh: And a lot of students, when they found out, find this out about Scalia. If Scalia was in the dissent. It was his practice to hurry up and finish his dissent, at least a draft of it and give it to whoever was writing the majority opinion. OK, because he knew that they would want to be able to respond to his most, if you will salient points in his dissent, 'cause he thought that that was. You know, good collegial practice. Any any did it most infamously, with Ginsburg in the VMI case where the court in 1996 in US versus Virginia ruled that VMI's Mail only emissions policy violated the equal protection

clause of the 14th Amendment. Ginsburg wrote the majority opinion. The only dissent in that case, was Scalia, OK. Scalia, um, and, you can look this up on YouTube 'cause Ginsburg's talked about it. Ginsburg was leaving the court to go to a judicial conference for the weekend. And before she left the Supreme Court building, a Scalia showed up with a hard copy of his draft dissent and said, take a look at this. You might have, you know, you might appreciate OK being able to respond. So she read it on the flight. She thought about it over the weekend. And you can actually see in her majority opinion, OK, three or four points where she was specifically responding to criticisms made by Scalia in his dissent. OK, you don't do that if you don't like the other person. If you don't respect the other person.

N. Rodgers: It it it also shows. His respect for the law. He wants the law to be as clear and as cleanly written. Right? Like if she if he comes up with points and she hasn't touched on them then it leaves doubt. It leaves room for doubt whereas his, his desire to see the, the opinions be written as cleanly as possible so that it it doesn't cast more questions than it answers yeah, and it really professional and, and personal love of the law.

J. Aughenbaugh: Yeah, I mean that is something that both of them shared. OK, yes. You know both of them wrote, shall we say, more entertainingly, when they were in the dissent? OK, OK, particularly Scalia. But I I, I got to admit, Nia. Before we recorded this podcast I read through Easily a couple dozen of Ginsberg's dissenting opinions. Oh, you could tell she was upset, right? The The energy, the The, The The, The VM, it's of the language. OK just came through but with both of them they love to be clear. OK they thought the cord was best when the court spoke clearly. OK, and the only way an an I tell students this all the time. You want your writing to get better. Give it to somebody who doesn't think like you. Who doesn't believe as you do. Because they will force you to go ahead and be as clear as possible. Even if they oppose what you have to say, OK, um? They're going to force you to write better.

N. Rodgers: It always always talking to someone in the opposition improves your argument because it helps you understand, where you believe something just because you believe it and where you believe something because you have evidence for believing the thing.

J. Aughenbaugh: And it forces you to explain things better.

N. Rodgers: Right and you need to be able to learn to let go of. I just believe this because I believe this yeah to be able to say no. I have a rational. Like I can rationally explain why I believe the thing I believe I, I think they made each other better, justices Anne. Frankly, I think Scalia and Ginsburg both made other justices better justices by doing that, by saying why. Why do you believe that? What's what? What's your holding belief? What's the underlying reason and the other person has to say they have to get beyond instinct, right? Because it's just what I believe. Well that doesn't cut it. You have to...

J. Aughenbaugh: Yeah, with neither with neither of them could you go ahead and say, Well everybody thinks that way.

N. Rodgers: Right or just 'cause OK?

J. Aughenbaugh: I mean, because in again I pointed this out to students. I said. Yes, Ginsburg quite obviously suffered gender discrimination in her life, in her career, et cetera. But I said You also gotta

remember folks Scalia was an Italian American second generation. OK, um an at a time in the 1930s, forties and 50s, where Italian Americans who were Catholic practicing Catholics were still being discriminated against, right? Um, so um and they're, they're other shared things between them, right? Uh, you know, you know, get Ginsburg's said this, she never lacked for love as a child. OK, her family put her on a pedestal. Scalia, likewise he was the only child, ok, in an Italian American family and he had no cousins. This was a person who got doubted on right. You know, I remind my students all the time. You want. You want to see a shared person. Personal trade among most Supreme Court justices. OK, they were frequently told at a very early age, one they were loved and two they were smart. And they believe that they've been smart most of their lives. In fact, they frequently believe they are the smartest person in the room, OK? And that's not necessarily a bad thing for a Supreme Court. That's not necessarily a bad thing when you got a whole bunch of smart people on the court.

N. Rodgers: Yeah, although I would imagine that it like it also leads to some really interesting arguments, um? Not just about the law, but about other things. Because you're used being smart. But they're also used to. I think we forget sometimes that most of the justices have come up through judgeships in some way. They are used to tempering their ideas by the act of listening. Like judges, almost their entire job, is just active listening. I need to listen for certain cues for certain things, right? I need to I need to be paying attention and listening all the time, so I imagine they're actually really good at conversation. Because they're used to listening to other people, they used to listening for what for for what will lead them to make a good decision.

J. Aughenbaugh: Yeah, you and I for instance talked about this, uh, in reference to Clarence Thomas, who got criticized because he didn't speak during oral arguments for well over a decade. Um, in both, you and I joked in a previous podcast episode. But imagine how good he got at listening.

N. Rodgers: Imagine how good a conversationalist he is in private.

J. Aughenbaugh: Oh my goodness, yes, right? I mean by all accounts, he's probably the best known and best liked justice among the support staff at the at the Supreme Court. OK, he knows everybody's names. OK, he knows their family members, their favorite sports teams, how they're doing physically, medically, et cetera, right?

N. Rodgers: They go to him with problems.

J. Aughenbaugh: Yeah, this does not surprise me right? This does not surprise me at all, OK? Uh, you know, um, there is a book that just got released. Um, in fact, I think it was last week, um. The Essential Scalia on the Constitution, the Courts, and the Rule of Law. Um and then the introduction, um, the the introduction is done by six Circuit Court of Appeals Judge Jeff Sutton. And I believe Sutton is a former clerk of Scalia. But there's there's. There's a great anecdote that Sutton tells about how he went to Scalia's, uh chambers. OK, and, Uh, Justice Scalia had two dozen roses. OK, um and in Sutton wants to know what she get you. You know what? Who are the roses for? OK in school you said, well, I'm gonna go to Ruth, Ruth Bader Ginsburg's chambers and give her the roses for her birthday right? And of course judge Simon is just like why you doing that. You know where you know where these roses gotten you in, you know, in close five to four decided cases OK. And in Scalia's retort, I think, will resonate with me

until I die OK? He said some things are more important than votes. OK. And again I tell my students this all the time. You guys are gonna go work for government agencies. You're going to work in law firms. Some of you want to become lawyers and judges. You're going to do a lot of small group interaction. You're going to have to work with colleagues, and one of the fundamental choices you're gonna have to make is, you know, How do I work with these people? Even when the group overall decides to do something, I don't want to do. How do you work with them? Right? Just because they go ahead and think differently than you doesn't necessarily mean that they aren't worthy of your respect. Um, and your consideration. Um? An you know in in neither one of them were hoping to change the other ones mind right? I mean, you know both. Both Ginsburg and Scalia, You know, have said this with regularity, right? We didn't think we were going to change the other person's mind, but by interacting with the other. It was going to improve our thinking and we just enjoyed their company. Right, we just enjoyed their company. How often can you say that about people you work with, right? Right, think about it.

N. Rodgers: Or people who are in the opposite. In the opposite stream from you. Like we're so polarized now. How often do you sit down with those people and enjoy them? As people. As yeah as people who you know, aside from your political views or your, or your whatever, all of those things separate you. There are so many more things that you have in common. They both had a deep love of the opera. They both had a deep love of good wine and good food, right like? They had joining ground. They had place, a place where they could meet each other that wasn't about... like I think probably. They had a work relationship that was very powerful because they they used each other's ideas. Um, too. To help formulate their own ideas about the law, but they also had this deeply personal relationship that I think sometimes we forget the people on the other side of us, politically, are people, and they're probably people with whom we have a great deal in common, more in common than we don't. They love their family. They love... They love sports, they love to, you know, I mean. Oh I don't know it it's.

J. Aughenbaugh: Well, listeners, one of the things that Nia and I have talked a you know off recording if you will. Is you know the people we work with, many of whom we enjoy. Um and Nia's heard me talk at length uh, about my, you know dear departed, good friend and colleague Herb Hirsch, OK? I mean Herb Hirsh and I, ideologically and politically we're polar opposites, right, OK. Uh, on the other hand, um, you know. Nia just talked about common ground. OK, there was so much common ground between the two of us. Um, that thankfully we didn't leave. Let our ideological differences OK spoil or stop us from finding that common ground. Um, 'cause it really would have. It would have been terrible if we had not become friends. You know, you know, particularly in my estimation, OK, but we had we, we shared so much right from music to movies to sports. Um, you know where we grew up, small towns in Pennsylvania. Uh, how both of us? You know, for instance, uh, never aspired to be college professors. Both of us wanted to be Major League Baseball players. OK, OK? And, uh. So in at times our intellectual disagreements shocked people because we we went at. We went at those conversations with the same amount of passion. OK, as we did, discussing movies or our favorite, you know, uh, you know crime mystery books OK? Um, or, you know, discussing you know basketball or whatever the case may be, right? You know, we both both had so much enthusiasm and passion. For whatever we were discussing right? I mean the idea. You know the idea near that you know we would have asked a conversation. OK, phone it in simply because the other person might disagree, but that was completely foreign to us, right? Completely forward us

right, you know. So we had colleagues who are like Oh my goodness, you know, you know the The This is going to break out into a fistfight. And then we would turn around and say, Hey, Let's go get a drink. And people are like how can you do that we're like well of course we can 'cause. We like each other. OK.

N. Rodgers: Yeah it yeah. I think that that's what we need to remember. We, I think what I think in powerful part of her legacy. Will be remembering that one of her best friends and most dear people in her life was a person that you would not have thought could sit in the same room together like, more than five minutes, and yet they created this beautiful, wonderful friendship. And they still allowed each other the intellectual space to be themselves. Um? I don't know.

J. Aughenbaugh: Yeah, I know we only have a few more minutes Nia um, did you want to get to a discussion of um, what her vacancy means for the 2020 elections?

N. Rodgers: I would because I'm, I'm curious about where you think this is gonna take us in in like Are we gonna have a super contentious, Brett Kavanaugh style, knock down, drag out. Are we gonna see it? Are we gonna see a nominee at all? How, where? Where are we gonna be in three weeks or six weeks?

J. Aughenbaugh: OK, well there you just asked a number of questions, so I'm going to try to break it. No, that's alright. I'm going to try to break it down. Um first of all, OK? Uh, in in this takes us back to the beginning of the podcast. Um, you know, we have a vacancy on the court, right? Both political parties. Have a certain amount of hypocrisy in their stances about whether or not the current president with the current Senate should fill the vacancy, uh, in in in you and I have both talked again off recording about how sad this is, that almost immediately the conversation turned to you know, will the president nominate somebody? And if so, will the Senate consider that nomination instead of taking a few days? Maybe even a week or so to fully appreciate a life well lived. You know? Ruth Bader Ginsburg's life. We immediately jump to the politics, right?

N. Rodgers: I just want to say for a moment, quickly and bitterly - really like she wasn't even buried before we were talking about this. Anymore, by the way, Jewish burials that's within 24 hours like come on? Yeah, we at least. Can we at least wait till Monday? She died on a Friday? Can we at least wait till Monday before we start talking about this an and they didn't and I'm I am angry at all sides for that, just in case anybody was wondering.

J. Aughenbaugh: Yeah, I was not pleased. I wasn't pleased and how quickly, uh? Political considerations arose when Scalia died. Because that was within like hours. Um, but nevertheless.

N. Rodgers: Although can I also side note something I'm not normally. Um, I think listeners regularly know that I'm not a huge fan of the president. Um, but when he came off of Air Force One or Helicopter one, or whichever one that I can't remember what it's called. I guess whenever he's on his Air Force, Marine One. I think and they said. Ruth Bader Ginsburg has died. His immediate reaction was "she was an incredible woman". Like he said, the right thing. Immediately. And he didn't immediately get trapped into and into saying anything else. He said she was an amazing woman. That's a great loss, yeah. So, in fairness to the president, that was the right thing to do.

J. Aughenbaugh: And I agree. Now, based on what the president has said. Uh, by the end of the week that we're recording this, he will nominate somebody. Senate Majority Leader Mitch McConnell has already indicated that the Senate, though he didn't specify when, the Senate will take up the president's nomination. So there's two considerations here. One. Who will be the nominee and then to um? How quickly will the Senate um consider the presidents nominee? A large part of this is as a potential impact on the upcoming election. So for instance, OK. At the time we're recording, there is roughly six weeks to the day. OK before the election.

N. Rodgers: Oh my gosh, you're right. OK, it's six weeks early to the day.

J. Aughenbaugh: Yeah, six weeks to the day. Um, according to my research, and according to a number of other scholars. The last Supreme Court nominee. From announcement to confirmation by the Senate that occurred in six weeks or less was John Paul Stevens in 1975, OK.

N. Rodgers: Not something that happens that quickly.

J. Aughenbaugh: The process has become much more protracted, OK? So that's gonna be a consideration. That's gonna be a consideration. Then there's the electoral consideration. OK, you know. Do the Republicans want, uh, a nominee to be announced and confirmed before the election in an attempt to perhaps mobilize their base? Will they wait until after the election? OK, um, in an attempt to go ahead and mobilize their base? As in, you need to re elect Republican senators because we need all of their votes. OK to confirm the president's nominee, OK? Then we know. That there are prominent Democrats who have said if the president nominates somebody in the Senate, votes on them, there is going to be quote unquote hell to pay unquote. OK, um, if we regain control of the presidency and the Senate. So for instance, a number of Democratic senators have already said we're going to pull out, OK, the Republican Party's worst nightmare of legislation. OK, if Trump gets his nominee on the Supreme Court to replace Ruth Bader Ginsburg. You know they're, they are threatening to pack the court., grant statehood to both Washington DC and Puerto Rico. Because the assumption is both of them would be heavily Democratic. OK, um, consider an amendment to abolish the Electoral College OK, um, and to end the filibuster for even legislation. Not just nominations to the judiciary and the executive branch, but for all legislation. And thus the minority party in the Senate would have no structural tool to slow down the majority. OK.

N. Rodgers: Which, by the way, is completely not what the Founders wanted, but OK.

J. Aughenbaugh: Yes, right, if you think about how to set it, how the Senate was supposed to be slow and deliberate compared to the House, you get rid of the filibuster. OK, Um, and I understand why, OK? Those in the majority want to get rid of the filibuster OK, but remember the filibuster is not only being used OK by racists, and you know in in Senators who were in favor of discrimination. The filibuster is being used to go ahead and slow down the majority to pause and say, is this what we want to do. Right, OK?

N. Rodgers: Which was the point of the Senate, but.

J. Aughenbaugh: So in part near my answer to your question, is both parties, and for that matter, both presidential nominees. OK, presidential party nominees have to take a calculus. They have to project. How? How will our behavior mobilize our base?

N. Rodgers: And the other base.

J. Aughenbaugh: And the other base right? So for instance, I have a number of students, OK who have already said because either they were huge fans of Ruth Bader Ginsburg or they're members of the Democratic Party, if the Republicans try to jam through Ruth Bader Ginsburg's replacement. OK, this is going to motivate me even more to elect the president's opponent. On the other hand, OK. If the opposition party is against the president's nominee OK. This may mobilize the president's base.

N. Rodgers: I mean, I wouldn't they would, they would say, Oh, you don't like her then? Or himbut probably her. We want her times more than you were before. Because just because you don't like her like that's where we've gotten in this ridiculous. current milieu that we're living in is that is the one, everybody's acting bonkers and I, uh. There are words I could use, but we're trying to keep this podcast clean. Well, I'm not going to use. I'm going to use bonkers. Saying things like we're gonna get rid of the filibuster and we're going to pack the courts. And we've got, by the way, up at the court packing episode coming up that will will have for you guys in quite awhile. Couple months but but you know these threats are and then the threats on the other side. Oh yeah, we might have picked somebody who was slightly more mainstream, but now that you're starting to be like that, we're going to go find the hardest core person we can find like. It's, it's bonkers, it's bonkers.

J. Aughenbaugh: OK, it is long-term listeners. You know both Nia and I grew up in rural parts of the country, OK, and a common expression. OK, we used to hear all the time was. You know, "hold my beer", OK? I'm gonna top you OK.

N. Rodgers: That's what you heard up North and what you hear in the South is "hey y'all watch this". OK hey y'all watch this, hold my beer mean the same thing right in in something stupid is about to occur.

J. Aughenbaugh: Yeah yeah right OK if you think OK you're over the top no no no no no. OK I'm gonna top you. And you're just gonna sort of like at some point. No! right no!

N. Rodgers: Everybody needs to put down their beer and stop telling people to watch them like everybody just needs to stop.

J. Aughenbaugh: Yes, right, OK. I mean, I mean, I. I you know I I mentioned this in my courts and politics class yesterday. In fact, they said you know, guys, you know, um? You know there is a grand deal here, right? And they're like, What do you mean? I said, you know? The Republicans could go ahead and say that the Democrats. OK, fine, we won't nominate Ginsburg successor. On the other hand, Democrats, you gotta promise that if you great regain control of both the presidency in the Senate OK, that you don't pull out this, you know this wish list. OK, that goes ahead and trashes a number of institutions you we, but we both Gotta back away, right? Right there, I get the deal here to be made. It won't be made OK, but there's a deal to be made here, right?

N. Rodgers: Do you think that it won't be made because we're just so polarized as a country?

J. Aughenbaugh: That's part of it. The other part of this is powerful. Yeah, go ahead.

N. Rodgers: Are we polarized as a country or are our politics polarized?

J. Aughenbaugh: Our politics are polarized. Our media is not helping, right? I mean you've heard me say this before. OK, um, if I was a publisher of a major newspaper. I would have, you know, issued and eat it. We do not talk politics about Ruth Bader Ginsburg's passing until like Monday or Tuesday of the following week, right? OK, but I'm not a publisher of a newspaper, OK?

N. Rodgers: I waited to record until, by the way, listeners. It's five days later, like yeah.

J. Aughenbaugh: Five days later, um, and you know, both of us, you know, talked about doing it sooner, and we held off, uh, and I think for both of us, uh, it was beneficial for our headspace, right? And, uh, you know, uh, you know an I can go ahead and speak to this. Um, you know? I was not a big fan of Ginsburg Jurisprudence. I wasn't a big fan of Scalia's jurisprudence, um, but they've been seminal figures. In my professional Life OK, um, and I respected the heck out of both of them. Um, I admired both of them for various reasons. Oftentimes different reasons. You know, uh, I am a Supreme. I study the court. Um an my court OK mine OK as though I possess it right, my court's gonna change now. OK, um? And I study institutions and institutions change when membership changes. OK, particularly somebody as important As Ruth Bader Ginsburg. OK, but our politics is polarized, right? Um, I did a, um, an interview for a local TV affiliate yesterday. Uh, they went ahead and posted the interview, uh, on their social media. And I read through some of the comments, uh, first thing this morning. And, Um, I was appalled. OK, uh, by some of the comments, um, that just the vitriol, the anger. OK, um, in these comments I was just like. This person just died. OK, um, but yeah, we're, we're translating it, um, back into our political battles.

N. Rodgers: We all need more dignity. And politics needs to be more dignified. It used to be, I think, a little more dignified than it is now, and the one good thing is that I think that. That people are seeing it. The swampiness is having the effect that both sides are disgusted.

J. Aughenbaugh: Oh yeah, yeah.

N. Rodgers: I mean, that's a positive. At least nobody said no. My sides doing this exactly right. Everybody is saying no, my side sucks too, like it's just not.

J. Aughenbaugh: Is Oh yeah, I mean it, it's. And I've said this and I said this, uh yesterday in a couple of other press interviews. OK, right now, both political parties at the national level are engaged in, you know, constitutional hardball. You know political hardball. OK, um, and when you do that. What we've seen historically in this country is neither side wins. The danger is the institutions that these parties are trying OK to go, you know, take control of so they operate the levers of governing. The institutions get harmed in the process, right? OK. And that's where we start having people lose trust, right? I mean, if we're always going to view the court as a political branch, then why should we go ahead and give any more weight to their rulings than any law passed by Congress or any regulation issued by the executive

branch? I guess if the president is always gonna go ahead and utilize opportunities at authority. OK, um, then of course. My president, if I like the next one or a future one, well by God. They better use all of that authority too, right? OK. And if the Congress OK dominated my by my party engages in gridlock. OK, well the opposition party. OK, big surprise when they're in control, what do they engage in gridlock? OK.

N. Rodgers: I just I'm telling you Aughie, when I am president, I'm gonna send everybody home and say "we're starting over". To send all the Supreme's home and say we're starting over. The only people who are allowed to serve are centrist moderates. Don't send me anybody who's not a centrist moderate, who can't have a reasonable conversation with other people solve problems like rational folks.

J. Aughenbaugh: They all get. They all get a time out.

N. Rodgers: Outside that will look like a dictatorship, but it will be for everyone's best interests. So everybody gets a timeout. Everybody gets it automatically. Oh, sit on their mat. And take a nap and have a cookie and stop being obnoxious. If I ran on that, I would be elected tomorrow. I would be elected. Dictator for life because people would say wait, you're gonna have a moderate like people have to actually work together and talk to each other. Dude I'm in I will. I will vote.

J. Aughenbaugh: See for me I I, I've, uh, I've often joked in and Nia's heard this. OK, uh, if I was elected president first thing I would do is mandatory coffee and tea. Time, right? OK, I I would go around before I hold a press conference. Um, you know, I would just go ahead and make sure I have coffee with all the members of Congress, all the justices. OK, all the agencies had heads OK, and the, uh, the only rule of these, uh, coffee and tea conversations is we can't talk politics. I just want to know who the hell you are right? OK, I just want to know who you are right?

N. Rodgers: You can be my vice president. I'm sending the vice president over to have coffee or tea with you. Be prepared to talk about the Yankees.

J. Aughenbaugh: Or hey anything else you wanna talk about, right?

N. Rodgers: Whatever team you like you.

J. Aughenbaugh: Know or you know how you spent the evening? Or you know what music you like or what? Hey, what are your kids doing right? You know, uh, oh hey, you're putting, uh, a shed in your backyard. Well, you know hey, I'm going through that right now. Let's chat about that, right, OK?

N. Rodgers: Um, my chatter in chief. And then, when they start acting up, I'll call and say Aughie's coming over to your place for coffee. Be prepared to discuss your latest actions. And they will say, Oh man. He's coming to talk to me like a dad, right? Like when your dad says you down and says he says. You know, I know that this is just how you act, so I'm disappointed, but let's work through it. I'm disappointed with how you been handling the Senate lately. So let's talk about that. And then I and then I would be able to just threaten. I'd be able to call him up and say don't make me send the chatter in chief and then. Actually, they would probably love that. They would probably love that they would probably love somebody who treated them like a person and not like a political automaton.

J. Aughenbaugh: Yeah, I mean it. It it it, it won't solve all the problems, but I mean, hey, at the same time, um.

N. Rodgers: Gotta be better than what we have now.

J. Aughenbaugh: I mean the the vacancy caused by Justice Ginsburg's death Um is really highlighting, um, shall we say, uh, some of the more negative features of the American form of democracy, um and. I I like you, hope that what it leads to is a bunch of voters and a bunch of candidates who say we can do better. And we have to do better. Uh, but you know that's my hope.

N. Rodgers: Yeah, that's a good hope.

J. Aughenbaugh: So alright, uh, thanks Nia, uh, by the way, listeners usually Nia and I come up with these topics together. Um, but, uh, the this episode was definitely Nia's idea and I want to thank her for that opportunity. Um, uh to talk about, Uh, Justice Ruth Bader Ginsburg, Um and her important legacy. Um, not only is it justice, but. Uh, there's a old expression in my family. She was the finest kind. We got a huge loss because of her passing.

N. Rodgers: She'll be missed. Thank you Aughie.

You've been listening to civil discourse brought to you by VCU Libraries. Opinions expressed are solely the speaker's own and do not reflect the views or opinions of VCU or VCU Libraries. Special thanks to the Workshop for technical assistance. Music by Isaak Hopson. Find more information at guides.library.vcu.edu/discourse. As always, no documents were harmed in the making of this podcast.