Foreword

Dean Ken Gormley*

May it please the Court. It is a great honor for Duquesne Law School to host this Special Session of the Supreme Court of Pennsylvania, to recognize the myriad accomplishments of this Court’s Chief Justice, Ronald D. Castille.

Looking back on Chief Justice Castille’s professional life, it is striking how much of it has been focused on public service—and on a deeply personal sense of duty that is not just trotted out on special occasions. As you know, the Chief served his Nation in the U.S. Marine Corps as a Commissioned Officer, and was awarded, among other distinctions, the Bronze Star for bravery in combat during the Vietnam War. The Chief has often stated, and it bears underscoring, that he has dedicated his career in public service to his fellow Marines, whose names are etched on the Vietnam Memorial, including Platoon Sgt. Angel Mendez, who sacrificed his own life to save the Chief’s—in the midst of heavy machine gun fire during a mission to bring wounded and fallen Marines to safety.

Following a stint in private practice, Chief Justice Castille served in the Philadelphia District Attorney’s Office, eventually becoming that city’s District Attorney. And, for the past twenty years, he has served the citizens of the Commonwealth with distinction as a Justice on this Honorable Court and as Pennsylvania’s 55th Chief Justice.

We are here today to recognize that Chief Justice Castille has fulfilled the pledge that he made to his fellow jurists and to the citizens of this Commonwealth, when he was installed as Chief Justice in 2008—to make this Court a place where attorneys and citizens know that “justice will be done to their cause.” As an administrator, he has been a tireless worker and an effective leader. In these recent times of economic distress, unlike in other states, no Pennsylvania court has ever been forced to shut its doors. A much-needed Family Court building was completed in Philadelphia—under-budget. Chief Justice Castille’s unwavering support of the IOLTA

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* Dean, Duquesne University School of Law. Dean Gormley made these remarks at a Special Session of the Supreme Court of Pennsylvania at Duquesne University School of Law on October 7, 2014.
Program (Interest on Lawyers’ Trust Accounts) has been instrumental in providing legal services to the poor and underserved through grants made to Neighborhood Legal Services; non-profits like Kids’ Voice; the Pro Bono Partnership; and law school clinical programs like those operated here at Duquesne’s Law School.

This Chief’s tenure has been marked by a commitment to access, candor, a sense of responsibility, and a willingness to always reassess positions. Oral arguments have been characterized by genuine respect for the positions of all parties. And thanks to Chief Justice Castille’s efforts, those arguments have now been televised for the benefit of the public, for the first time in this Commonwealth’s history. His commitment to excellence is also manifest in the 404 majority opinions and the nearly 500 concurrences and dissents he has authored. They cover an impressive array of complex legal issues. And they reveal, in their careful construction, Chief Justice Castille’s desire to ensure that, regardless of station or status, all citizens will have access to the court, and will have their positions fairly considered by any court in this Commonwealth.

Some of the Chief’s opinions, of course, have received widespread attention, addressing major constitutional issues, which will be discussed further in this issue of the Duquesne Law Review.

But there are also those opinions that deal with average citizens’ concerns, outside the lofty realm of constitutional law. For instance, in Hannaberry HVAC v. Workers’ Compensation Appeal Board, a young man, who had started a full-time job for three months after graduating from high school, was rendered a quadriplegic when a forklift fell on him. If this young man’s average wage for workers’ compensation calculation had included the periods in the prior year when he worked only part-time hours after school, his workers’ compensation benefits would have been drastically reduced. The Workers’ Compensation Act did not squarely address these circumstances. However, finding guidance in the humanitarian and remedial purposes of the Act, the Chief concluded that the General Assembly could not have intended for the periods of part-time work to be part of that young man’s benefits calculation. Thus, he erred on the side of protecting this plaintiff and others who might be at the mercy of imprecise laws in coping with their serious injuries.

2. Id. at 534.
3. Id. at 526.
4. Id. at 533.
5. Id. at 533–34.
In Pennsylvania Gaming Control Board v. Philadelphia, the Chief insisted that the people of Philadelphia had no right to place a question on the ballot as to whether the city’s home rule charter could be amended to address the controversial location of a gaming facility. In his dissenting opinion, Chief Justice Castille pleaded with the majority to “let the People vote[!]”

More recently, in Commonwealth v. Eisenberg, the Chief penned a majority opinion involving a casino poker dealer who, for stealing $200 in poker chips, was sentenced to pay a mandatory minimum fine of $75,000 under a law designed to favor casino owners. Noting that the sentence was imposed on a twenty-six-year-old with no prior criminal record who, at the time of sentencing, was enrolled as a part-time student and expecting his first child, the Chief found the mandatory fine infirm under article I, section 13 of the Pennsylvania Constitution—which commands that fines shall not be excessive—standing up for the average citizen against potential over-reaching by the government.

Late last year, in In re Bruno, this Court held that—as the Supreme Court with supervisory power over all courts in Pennsylvania—it possessed the ultimate power to suspend jurists for engaging in criminal conduct (in that case alleged felony charges involving conduct on the bench). Chief Justice Castille wrote the majority opinion. But he also wrote a rare “Special Concurring Opinion” to his own majority opinion, to express his views “unconstrained by majority authorship.” Here, the Chief insisted that nothing short of suspension without pay was appropriate in a case like this, when a judge was accused of misconduct in carrying out judicial duties. Describing himself as “old school,” Chief Justice Castille wrote: “The message to Pennsylvania jurists should be made clear, . . . more, much more, is required of those who would judge others.”

Chief Justice Castille’s opinions are occasionally—shall we say—colorful; he is not exactly afraid to call others out if he finds their arguments disingenuous. The Chief relishes big constitutional issues, as well as thinks big, while crafting solutions to complex legal problems. He likes agency law and cases from the commonwealth

7. Id. at 1273.
8. Id.
10. Id. at 1287.
12. Id. at 689–95.
13. Id. at 689.
14. Id. at 692.
court that make others cringe—because these often involve issues of extreme importance to average wage earners and common citizens. He cares deeply about federalism and is not afraid to challenge even the U.S. Supreme Court if he believes it has overstepped its bounds. He has also placed a high premium as Chief in achieving consensus among his fellow Justices—such as in *J.S. ex rel. H.S. v. Bethlehem Area School District*, where he wrote candidly, in concurring: “I also join in the majority opinion because I believe that it is important for this Court to decide cases by clear majority opinion whenever possible.”

I have come to know and follow and admire the work of Chief Justice Castille, not only in my capacity as the author of a treatise on Pennsylvania constitutional law, but as the former President of the Allegheny County Bar Association who worked with him on issues relating to judicial independence; and more recently as Dean of this Law School in addressing the issue of how we partner with the Court’s IOLTA Board, Neighborhood Legal Services and other entities to provide access to justice to indigent, underserved individuals.

What I have observed over these years is this: What some may perceive to be a gruff exterior and, occasionally a penchant for being outspoken and—yes—even blunt, in fact disguises a deep compassion and a desire to prod others to care more about issues that affect the lives of average citizens.

What stands out most, as I look back over twenty-one years of jurisprudence and opinions authored by this Justice on the nation’s oldest court, is a tough, unvarnished brand of courage—a willingness to tackle the hardest issues of our day and call them as he sees them—even though it might ruffle the feathers of the legislature, the governor, fellow jurists, or others who expect him to follow a certain pre-ordained course based upon political ideology or party background. This Chief defies such pre-conceptions.

In January 2008, I had the privilege of attending Chief Justice Castille’s installation ceremony as Chief, which was held in Philadelphia. I will never forget what he said in those remarks—they have always stuck with me. He told those assembled:

The Supreme Court is neither a “Democrat Court” nor a “Republican Court.” Of course, Supreme Court Justices are

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16. Id. at 871.
elected. But we are not elected to serve the parties whose ban-
er we ran under; we are not elected to serve any particular
constituency or any particular geographic region of Pennsylva-
nia—we are simply elected to serve a higher calling: Justice.
This Court is here to serve all the citizens of this Common-
wealth—to dispense fair and impartial justice to all.18

This jurist’s opinions—and his actions as Chief Justice—have
borne that out.

In this issue of the Duquesne Law Review, prominent scholars
will discuss key areas in which Chief Justice Castille has made sig-
nificant contributions to the jurisprudence of Pennsylvania, partic-
ularly in the unique area of Pennsylvania constitutional law—in
which this court has long been a national leader, and to which this
Chief has made his own lasting mark.

Some of the notable scholars contributing to this issue of the Du-
quesne Law Review include: Professor Robert Williams of Rutgers-
Camden Law School, the nation’s foremost expert in state constitu-
tional scholarship; Professor John Dernbach, of Widener Law
School in Harrisburg, the Commonwealth’s leading expert on envi-
ronmental law issues; and Professor Bruce Ledewitz of Duquesne
Law School, a top state constitutional scholar in the area of struc-
ture of government.

It is indeed an honor for Duquesne University School of Law to
host this special gathering, paying tribute to the remarkable career
and jurisprudence of one of the great Chief Justices in the history
of this great Commonwealth.

18. Chief Justice Ronald D. Castille, Installation Speech (Jan. 14, 2008) (transcript avail-
able on the Pennsylvania Supreme Court website).