

District Court Judges Go to Washington

**This post was previously published on the School's NC Criminal Law Blog on March 29th and we thought it would be of interest to our readers.*

A week ago, I sat in the gallery of the United States Supreme Court with twenty North Carolina district court judges listening to Chief Justice John Roberts announce the court's opinion in [Endrow v. Douglas County School District](#). The unanimous opinion, in which the court reversed the Tenth Circuit's holding that a child's Individual Education Plan (IEP) satisfies federal law as long as it is calculated to confer an educational benefit that is "merely more than de minimis" quickly became the [topic of questioning](#) later that morning in the confirmation hearing for Supreme Court nominee and current Tenth Circuit Judge Neil Gorsuch. Listening to the Chief Justice explain the court's reasoning was fascinating, and it was thrilling to have a bird's eye view as the news traveled through the city and the nation. This experience was just one part of the North Carolina Judicial College's inaugural Supreme Court Seminar for district court judges, which gave some of our state's most experienced jurists an opportunity to consider the role of the nation's highest court and the rule of law in our democracy, and to reflect upon their own judicial role.

What is the Judicial College? The Judicial College, which provides education and training for judicial officials, is part of the School of Government. School of Government faculty coordinate and teach in Judicial College programs. Those programs include training for new officials as well as an array of continuing education seminars. Many of the programs address topical areas at a level that is appropriate for an early or mid-career judge. A smaller number, such as the recent Supreme Court seminar, are targeted for experienced judges who are further along in their judicial careers.

Who went to Washington? Fifty-eight judges applied for the seminar. We considered years of service as a judge as well as geographic diversity in selecting the twenty attendees. Judges from eighteen judicial districts, ranging from District 2 (Hyde, Tyrrell, Washington, Martin, and Beaufort Counties) to District 30 (Cherokee, Graham, Swain, Macon, Jackson, and Haywood Counties) traveled to Washington. The judges selected had served for an average of sixteen years. The longest serving judge is in his twenty-fifth year on the bench. Each of the judges paid a substantial out-of-pocket registration fee to defray the cost of the seminar.



What else was on the agenda? The seminar began with a dinner discussion with former Solicitor General [Walter Dellinger](#), who has argued more than twenty-five cases before the court. Dellinger, who passed up opportunity to provide televised color commentary on the Gorsuch hearing to speak to our group, told the judges what to look and listen for at the following morning's oral argument. He talked about the benefits of a hot bench. When the justices air their questions and concerns, they provide the litigants with an opportunity to respond and address those concerns. When they don't ask, the litigants are left guessing about which points to drive home. Dellinger also talked about the intense preparation required for a successful oral argument and his own experiences winning – and losing – cases before the court.

The hot bench did not disappoint. The attorney for the petitioner in the first case, *County of Los Angeles v. Mendez*, who was arguing that sheriff's deputies carrying out a warrantless raid of a house should not be liable for shooting a homeless couple who lived in a shack in the backyard,

[got through two sentences](#) before Justice Sotomayor interrupted with a series of comments and questions. Soon, Justice Kagan chimed in with questions of her own. Listening to the justices explain venerable legal principles like proximate cause and the warrant requirement and pose related hypotheticals to test the attorneys' arguments was pure pleasure for everyone in the group.

The second day of the seminar began with a docent-led tour of the National Archives Museum, where judges visited the [Rotunda](#) for the Charters of Freedom, the permanent home of the Declaration of Independence, the U.S. Constitution, and the Bill of Rights. The blue banner stretching across the rotunda's ceiling represents the thousands of amendments proposed to the Constitution following its ratification, only twenty-seven of which have been ratified. Like many Americans, I take the genius of our founders for granted, seldom stopping to reflect on how improbable it is that their experiment in democracy has flourished over the past two hundred years, notwithstanding significant societal changes and technological advancements. One cannot help but to contemplate the marvel of our government while studying the handwritten Constitution, which, I noticed is marked with carets for the insertion of omitted words. And the National Archives Museum is chock-full of other thought-provoking displays, including one on the arrest of Rosa Parks that features a diagram of the bus upon which she sat and the accompanying police report.

The judges also met with Senator Richard Burr for a 30-minute open-ended question and answer session. Senator Burr discussed the process for the Gorsuch nomination and answered questions from the group about the nomination and confirmation of new U.S. Attorneys and the prospects for criminal law reform at the federal level.

The last day of the seminar culminated in a visit to the United States Holocaust Museum, where the group was treated to a lecture by Dr. William Meinecke, museum historian, regarding the role of German courts and judges during the Holocaust. Ann Weber O'Rourke, program coordinator for the museum, then facilitated the judges' work on case problems that reflected how judges perhaps unwittingly aided Hitler's regime by following the law as it was amended during the Nazi era. One of the points of emphasis in the program and the museum itself is that ordinary, otherwise well-meaning people helped facilitate atrocities against Jews – not by playing a direct role, but [by tolerating what they saw](#). Dr. Meinecke and Ms. O'Rourke ended the session for judges by posing this question: *What can you do in your court right now to ensure that the kinds of failures that led to the Holocaust do not happen on your watch?*

What's the benefit of this kind of program? A lot of our teaching is technical, and requires reviewing specific legal rules and applicable case law. That's important, and we value our instruction on criminal procedure, evidence, sentencing, and the like. We think it is also important to support the whole person, in this case, the whole judge, particularly as they assume senior and leadership roles among their colleagues. We want to inspire the court officials with whom we work to be their best person and do their best work. We hope that last week's educational experience provokes thought and that it recharges these judicial officials by reminding them about why their work matters.

