

OPEN NINTH:

CONVERSATIONS BEYOND THE COURTROOM

A LEGACY OF FAIRNESS

REMEMBERING THE HONORABLE JON B. MORGAN

EPISODE 120

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HOSTED BY: DONALD A. MYERS, JR.

(Music)

NARRATOR: Welcome to another episode of “Open Ninth: Conversations Beyond the Courtroom” in the Ninth Judicial Circuit Court of Florida.

And now here’s your host, Chief Judge Don Myers.

CHIEF JUDGE MYERS: Hello, and welcome to Open Ninth. Joining me today is retired judge Heather O’Brien. Heather served in the Ninth Circuit as a county judge spending her eight years on the bench in Osceola County before retiring in 2018, where she left to serve at the U.S. Center for SafeSport, a place where she is now the General Counsel. SafeSport is a nonprofit that was formed, and focused on ending all forms of abuse in sport. Heather’s also recently served as a 2019 and ’20 United States Supreme Court fellow in the Administrative Offices of the United States Supreme Court. It’s so great to have you back here for the podcast. Thanks for joining me, Heather.

JUDGE O’BRIEN: It’s so wonderful to be with you and to see you, my treasured colleague, although it is strange to hear the word retired next to my name.

CHIEF JUDGE MYERS: Those of you who are listening in with us would not necessarily appreciate just how young retired Judge O’Brien is, and so you’ll hear it in her voice but wouldn’t recognize it in her appearance. I’m so grateful to be able to talk with you today, Heather, and unfortunately on the basis of the loss of a dear colleague and friend of both of ours, Judge Jon B. Morgan. And so we’re going to talk just a little bit about how you knew Judge Morgan, some of your connection points and some of the influence that he had on you. I’ll say it this way, you know, the fingerprints on your life from Judge Morgan. So let’s start with just a little bit of background. Tell us – tell us how it is you came to Osceola County and to the law.

JUDGE O'BRIEN: I decided to move to Osceola County in 2004 in the middle of the hurricane season that Florida had. I was – I had recently –

CHIEF JUDGE MYERS: Frances, Charlie and Jeanne for those who don't remember.

JUDGE O'BRIEN: Yes. I was stuck for a little while in Pensacola before I could make my way to Central Florida. But I had decided at that point in my young career that I wanted to live and experience somewhere different. So I had left Colorado after a clerkship there, applied for a job as a federal public defender. Actually ended up getting a job with the state public defender and I took the Florida bar, and moved across country not really knowing anyone to begin my legal career in Florida.

CHIEF JUDGE MYERS: That's incredible. And so you started out as a public defender then with the Ninth Judicial Circuit, and were you serving in Orange or Osceola, or some combination of both?

JUDGE O'BRIEN: Like many attorneys, a combination of both. I started in Orange County but was promoted to Juvenile and so I was the singular public defender at that time in the juvenile division in Osceola County.

CHIEF JUDGE MYERS: Great. And how is it that you ended up on the bench as a judge with us?

JUDGE O'BRIEN: In 2010, Ron Legendre retired from the bench and given a confluence of different events in my life, I decided to seek nomination for a county court position. I went through the JNC process and ultimately interviewed with the Governor at the time, and was selected.

CHIEF JUDGE MYERS: Awesome. And then you served, was it eight years on the county court bench there?

JUDGE O'BRIEN: I did, all on the criminal bench.

CHIEF JUDGE MYERS: Excellent. Tell us a little bit about the work that you did between those two, because there was some – some intervening events.

JUDGE O'BRIEN: I like to joke that I wasn't able to hold down a job for very long but that's really, because when different opportunities sprang up, I had the benefit of seizing upon them. After I was a public defender, I became a staff attorney for the Ninth Judicial Circuit and I was stationed in Osceola County. And that's where I first got to meet and work with Judge Morgan. After that, I was an assistant county attorney for Osceola County just across the street from the courthouse. And then from that time period on I became a judge.

CHIEF JUDGE MYERS: Awesome. So where – tell us a little bit – well, maybe for the benefit of our listening audience, again, Judge Morgan served for nearly 23 years in Osceola County, first as a county court judge and then ultimately as a circuit court judge. Tell me where is it that you all first met and help us – help us appreciate that event.

JUDGE O'BRIEN: When I was thinking about how long I had known Judge Morgan, it was for the better part of 14 years and that was just a remarkable 14 years that I was blessed to spend with him and work with him. I met him when he was a circuit court judge and I became a staff attorney for the Ninth Judicial Circuit in Osceola County. One of my proudest moments and things when thinking back about Judge Morgan was that Judge Morgan, as you know was known for his work ethic and the hours that he put in every day. And Judge Morgan did the majority of his work on his own. He did not utilize the services of staff attorneys very

frequently. So whenever he would come to me with a project or ask me to help him with a motion to suppress, or a death penalty issue, it was just such an honor that he had enough trust in my abilities to assist him with that work.

CHIEF JUDGE MYERS: How long did you serve in that staff attorney role where you had contact with Judge Morgan?

JUDGE O'BRIEN: I served as Judge Morgan's staff attorney for about two years before I went to the county attorney's office.

CHIEF JUDGE MYERS: And tell us a little bit about Judge Morgan, how – the Judge Morgan you came to know.

JUDGE O'BRIEN: It's interesting that I've gotten to know Judge Morgan on different levels; both as a staff attorney, as a practicing attorney in his courtroom, as a colleague when we were both on the bench together, and just as a human being for all the time that we got to spend on the sixth floor together. The sixth floor is where in Osceola County the judges have their chambers, and also outside of the courtroom. One of the best parts about Judge Morgan, he was always the same person no matter where you encountered him, be it on the bench or if we went bowling, or if I was operating as his staff attorney. He is truly one of the most authentic human beings that I have ever been around.

CHIEF JUDGE MYERS: So you got a chance I'm sure of that time to know his family as well and his connections, I guess inside the community. What were some of the things that struck you about Judge Morgan and the things that I like to say that he did quietly because not a lot of people knew these things?

JUDGE O'BRIEN: That's exactly what I was going to say too, just how silently involved he was with so many things throughout Osceola County, be it working with individuals with mental health or substance abuse issues, to serving on boards of different community organizations, to his involvement in the church. He just – his fingerprints, as you said earlier, were all over Osceola County and to its betterment.

CHIEF JUDGE MYERS: Judge Morgan wasn't originally from Osceola County. He was a transplant I think we might say, but he was a Florida graduate, which he and I share in common, and loved the state and ultimately loved Osceola County. I think some of my fondest memories I actually got to see him at the rodeo. He loved to come and just talk to people and just loved the environment.

JUDGE O'BRIEN: The rodeo is such an important part of many of our experiences in Osceola County. It's a unique event. It's the largest rodeo east of the Mississippi and it's really such a fixture of the Osceola County community and has been so I think since the 1940s. So that was one of those places where folks would get to interact with many judges, including Judge Morgan, on a human level, and enjoy something unique that the community had to offer.

CHIEF JUDGE MYERS: Tell me about what you observed about Judge Morgan as a staff attorney. Did you get to see him on the bench?

JUDGE O'BRIEN: Not terribly often. The staff attorneys will occasionally go to watch court but for the most part we work from our offices and focus on more of the paper work, research and writing aspects of the behind the scenes work that go on in the circuit. I actually spent a lot more time sitting in Judge Morgan's courtroom much to the chagrin of the deputies when I was a fellow judge. Because when I was able to finish my docket, I would often go to

Judge Morgan's courtroom to watch the serious felony cases that he was trying. And so ironically, the majority of the time I got to see Judge Morgan on the bench was actually when I was a fellow judge.

CHIEF JUDGE MYERS: So what were your observations of him as a jurist in the time that he spent on the bench and again, for our listeners, you mentioned this idea about his work ethic. It is true. He was the first to the courthouse every morning and frequently the last to leave in the evenings. And he didn't spend time in his chambers except in that early morning until they would just let him get on the bench. He wanted to get started. But tell us a little bit about what you saw.

JUDGE O'BRIEN: He was the most fair human being I have ever been around and the most fair jurist. I was thinking back to an instance where Judge Morgan was sentencing a defendant and he sentenced him to 17 years in prison. So obviously a very serious offense. That's a serious sentence. And something remarkable happened. The defendant thanked him after he sentenced him to that and it wasn't that he was thanking him for sentencing him to 17 years in prison. He was thanking him for the dignity and respect that Judge Morgan afforded him throughout the process. And everyone felt that way when they were in Judge Morgan's courtroom that they were going to be listened to. That they were going to get a fair shot. That they would be treated with dignity and respect, that he would follow the law, and no matter what the outcome was, that made everything palatable to those that were in there. And I've not seen another judge in my many years of being around very many judges in different capacities operate the way he did in that regard.

CHIEF JUDGE MYERS: He was incredibly well respected for the way that he treated folks. And I remember some conversation with his family, in anticipation of his memorial

service, and the family members and particularly his children attributed that to this idea that he was just phenomenally self-aware and had this true understanding and recognition that but for the grace of God that could be him standing on the other side of a bench facing a judge, addressing a lengthy sentence or whatever the circumstance may be. And no matter how small, and no matter how large that was what motivated him to treat people in the way that he did and I found myself in a bit of a Facebook worm hole. When Judge Morgan passed, the circuit put out an announcement about his passing and more than 100 comments on that Facebook page in grateful appreciation for Judge Morgan's life, for his legacy, but that was shared as well over 200 times by folks in the community who wanted to tell friends and family about Judge Morgan's passing. And in preparation for the memorial I found myself just digging down deeper and deeper into this worm hole of comments and I ran across a conversation by a couple of defendants who had appeared. And they had reposted the notice of Judge Morgan's passing and their conversation was really fascinating. It was – it was so respectful of Judge Morgan as the judge that had handled their cases for his fairness, for his listening, for the manner in which he treated them. He truly not only was an honorable man, but treated the people not just who appeared in front of him, but certainly those folks as well in such an honorable way.

JUDGE O'BRIEN: This is – this is sort of related to what you just said, but I was so struck by – I listened in preparation for this to your podcast with Judge Morgan that you conducted upon his retirement. And a couple of things stuck out. One, you could hear he was so tremendously uncomfortable because he did not like talking about himself which just feeds into everything else because he's one of the most humble human beings on the planet. But at the end of that, I love what he said to you. He said to you, because you credited him with being a mentor judge and having such a positive impact on your judicial career. And Judge Morgan said if I had

any positive impact on your career, I'm tremendously proud about that. And I know he'd be tremendously proud too about reading those comments. He'd be embarrassed but proud too about reading those comments from defendants and the hundreds of other people that spoke after his passing to talk about what an incredible person he was. And when I thought about that even more, it came to me that Judge Morgan had a positive impact on thousands, perhaps even hundreds of thousands, of fellow judges, lawyers, litigants, community members. There are so few of us in this world where the breath of our impact is so positive and so wide, and you got a piece of that in going down that Facebook worm hole, but I can't emphasize enough how remarkable he was in that regard.

CHIEF JUDGE MYERS: I think there are plenty of folks who would testify to exactly that. And then folks impacted by those folks. It really is this tumbling of dominos one after another of those that had been impacted as a consequence. We were very excited for Judge Morgan in his time of retirement, hopeful that he would get to enjoy family. He had a brand new grandson that he had spent some time with already and I know he was looking forward to that. Amazingly in that podcast that we did with him at his retirement, he also said he looked forward perhaps to the chance of coming back to serve again as a senior judge.

JUDGE O'BRIEN: That was not surprising to me that after a brief respite he would return to the bench to operate in a senior judge capacity. It was really such a huge piece of who he was as a person. I wrote an email to Judge Morgan, and I'm so grateful that I did, his last day as a judge. I was a little caught off guard when it was because I expected that his last day would be the last absolute second of his commission, and I think he left a little bit earlier than that right before maybe Christmas. So I'm grateful that I asked his judicial assistant, Kristen when that was happening, and I was able to write that email to him thanking him for his service and all he

did for me and the community, and just expressing my love but that – it was just so hard for me to not think of him being a judge at every moment. But even his retirement was a bit hard for me to reconcile in my own mind.

CHIEF JUDGE MYERS: Tell me how, as a judge, Judge Morgan influenced and impacted the way that you judged?

JUDGE O'BRIEN: He had so many profound impacts on the way that I judged, some that I was aware of at the time and some that I'm only thoughtful about now that I'm no longer a judge. I tried to emulate Judge Morgan's work ethic, although he was hard to keep up with. While he might have been the first person at the courthouse every day, I tried to at least be the second. He would – I would hear his door shut as he went to the courtroom and I would try and be right behind him on the way to mine. Everyone, and this was the most important, everyone that came into my courtroom, I tried to treat with the same level of dignity and respect that Judge Morgan did in his, no matter what had brought them there on any particular day. And I hope I was at the very least half as successful as he was at that. And I tried just to be an authentic good human being. I still do. And I still, even though I'm not a judge any longer, try and operate in these same ways and a lot of it was because of his example.

CHIEF JUDGE MYERS: I know for you and others that Judge Morgan's conversations, his mentorship, his counsel weren't always just professional, frequently they were personal as well.

JUDGE O'BRIEN: Judge Morgan was great in that regard. He – he was interesting with me and I appreciate this about him, and I imagine some others had a similar experience. But because I had the benefit of working with him before, when I became a judge, I think he knew

my strengths, he knew my weaknesses and he molded his mentoring around that. So on things that he thought I was good enough to do on my own, he let me go and didn't micromanage me which was just wonderful because it allowed me to develop and grow into my own as a judge. But in other areas where he knew that I could use some improvements or that I didn't quite have the life experiences yet because I was appointed when I was only 33, he made sure to give me certain wisdom or laugh at me sometimes when I would get really angry and upset about something that he would just find to be completely silly. And all of those things really helped me be a better human being even outside the courtroom.

CHIEF JUDGE MYERS: I talked with one of the other – your fellow staff attorneys. I say fellow, I don't know that you all served at the same time but another staff attorney from Osceola who told me that, and we all know this, Judge Morgan loved his family dearly. And just beamed with pride at the chance to talk about his children and his wife and the life that they enjoyed together. But she told me that he really because of his parenthood mentorship influenced very much her mommy-hood, how she became a mother and what that looked like for her. Were there areas of your life, not parenthood, but other areas of your life where Judge Morgan's influences still felt?

JUDGE O'BRIEN: Judge Morgan's influences still felt not necessarily in that very personal capacity of being a parent because I'm not a parent but in different professional capacities. So for instance when I went to the Supreme Court for a year as a Supreme Court fellow, one of my duties was to, along with my co-fellows, teach a weekly seminar series with the Supreme Court interns. And I had bits of wisdom that Judge Morgan passed on to me that I was able to pass on to them and I was able to take with them his same demeanor and attitude in teaching that he had given to me. So I thought about him and some others that were really

influential in my career while I was performing that role for the Supreme Court. So like you said earlier, the impacts that Judge Morgan had on many people, some don't even know about because those Supreme Court interns probably don't know that a lot of the little tidbits of knowledge that I passed along to them came from a judge in Osceola County, Florida.

CHIEF JUDGE MYERS: Well, there's – there's no doubt in my mind that Judge Morgan's legacy will survive, that we're going to continue to hear stories, talk about impact. From your perspective, how do you view that legacy? What stands out for you?

JUDGE O'BRIEN: Judge Morgan's legacy is wrapped up in many of the things that I said previously. I know that some words that you attributed to him were wisdom, compassion and courage. And the three things that I think he embodied on top of those things as well were fairness, hard work and authenticity. His legacy will extend down through generations of lawyers, the courthouse that bears his name now, and I'm grateful to your efforts, the Circuits' efforts and the County Commissions' efforts in that regard, will serve as a reminder that when everyone steps foot in that courthouse, they should operate with the same level of thoughtfulness, respectfulness, and fairness and compassion that he did. So I hope that in a way everyone steps up their game now that that courthouse bears his name so that they can be sure that he would be proud by the work that they're conducting there.

CHIEF JUDGE MYERS: Yeah, I'm incredibly grateful for the chance to have been a part of the renaming of the Osceola County Courthouse to the Jon B. Morgan Courthouse. And like you, I'm deeply hopeful that the folks that walk in will remain connected to that legacy that Judge Morgan had of being tireless workers, of being incredibly fair of seeking to always make a difference in the life of an individual that appears and placing that as a priority over the numbers and moving cases and those things that can be easy to get caught up in when there's so many

lives moving before us as judges. So I, like you, am hopeful that that legacy will continue and excited about the prospect of the naming ceremony, the chance to put that signage up and to put some very visual reminders of those things that Judge Morgan stood for, for the benefit of those folks that are coming after him. Judge O'Brien, thank you so much for committing the time today to talk about, as I said a dear friend and colleague and the influence he's had in your life. I know his fingerprints are all over the lives of folks in not just Osceola County now but spreading outward from that. His ripple will be a big one, I'm confident. So thank you for joining us to talk about that.

JUDGE O'BRIEN: Thank you. It's truly my honor to be here with you today just as it was my honor to serve with Judge Morgan.

NARRATOR: You've been listening to "Open Ninth: Conversations Beyond the Courtroom" brought to you by Chief Judge Donald A. Myers, Jr. and the Ninth Judicial Circuit Court of Florida. For more information about the Ninth Judicial Circuit Court, follow us on Twitter, Facebook, Instagram and LinkedIn.

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