

**AN INTERVIEW WITH JUSTICE FAUSTINO FERNANDEZ-VINA
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PART 1 OF 3

From Santiago to South Jersey: Early Years in Cuba Through College Days

Born in Santiago, Cuba, Justice Fernandez-Vina grew up during the Cuban Revolution, which his family supported. His father, a classmate and early supporter of Fidel Castro, led the family to the US after the regime turned Communist. First arriving in Miami, the Fernandez-Vina Family soon moved to the Barrington/Haddon Heights area in New Jersey. He describes the language and economic troubles facing the recent arrivals.

As a middle school student, the Justice took up football and later took part in one of Haddon Heights most successful eras on the gridiron. In 1971 (check with Justice), Widener University recruited him as an outside linebacker. He became the co-captain of one of Widener's most storied rosters and graduated in 1975. During summers, then after college, he worked as a roofer and bouncer.

Shaun Illingworth: This begins an oral history interview with retired New Jersey Supreme Court Justice Faustino--is that how you say it, Faustino?

Justice Faustino Fernandez-Vina: Faustino, yes.

SI: Fernandez-Vina on November 14, 2023, in Mount Laurel, New Jersey. Thank you very much for sitting down with me. I really appreciate it.

Justice Fernandez-Vina: Thank you for taking the time to do this. It's really interesting.

SI: To begin, can you tell me a little bit about your early years, starting with where and when you were born?

Justice Fernandez-Vina: I was born in Santiago, Cuba, in 1952. We were very wealthy. There was a democracy, and a right-wing dictator by the name of Fulgencio Batista had a military coup. My father was directly against him. So, at one point, he was on a Batista death list.

One of my father's classmates, at a Jesuit school called Colegio de Dolores (after Nuestra Señora de los Dolores, our Lady of Sorrows), Fidel Castro and my father were classmates there. So, he started to help out to overthrow the revolution. My dad provided money and help.

Then, Fidel, after he took over, became Communist and my parents decided to leave. We came here. My father, incidentally, apparently, as I've heard, was also on a Fidel Castro death list. The school he went to, that I mentioned, there's a book about it. It's called *The Boys from Dolores*. I've never read it, but some of my friends have.

[Editor's Note: In March 1952, General Fulgencio Batista, who had served as President of Cuba from 1940 to 1944, led the Cuban Constitutional Army in a coup d'état. Fidel Castro emerged as an early opponent of the Batista regime, particularly following his forces' July 26, 1953 armed raid on the Moncada Barracks. This event led to the creation of the 26th of July Movement under Castro's leadership. The resistance fought a protracted, asymmetrical campaign until it finally drove Batista into exile on January 1, 1959. Castro then consolidated power into the one-party Communist regime that has ruled Cuba to the present. Author Patrick Symmes' *The Boys from Dolores: Fidel Castro's Schoolmates from Revolution to Exile* first appeared in 2007.]

[Note to Justice Fernandez-Vina: Would you like to include your father's full name in this note for the record? If so, please write in how you would like it to appear in the text.]

Anyway, so, we came here and we initially landed in Miami. Actually, when we were getting ready to leave--because that's the way Communism works--we all had our paperwork, but my mom and I were allowed to leave and my dad and my younger brother were not allowed to leave. They got out about eight, nine months later. We just waited in Miami.

Then, my father said that he wanted to move North, because he didn't like the way things were in Miami. A lot of people thought they'd be back immediately. They weren't doing anything to get their kids into schools and all, because they were going to go back. My father didn't think it was going to happen that way.

So, we came up here to Haddon Heights. I started fifth grade, went through high school, Haddon Heights High School. Then, I went to college, and then, I went to Rutgers Law School and graduated from Rutgers Law School.

SI: You were nine years old when you came here. What year was that?

Justice Fernandez-Vina: That would be 1952--no, '62, I'm sorry. I was born in '52, '62--I'm not good with math. That's why I went to law school instead of being a scientist. [laughter]

SI: What was the journey like? Does anything stand out about coming to the US?

Justice Fernandez-Vina: Well, what stood out is the fact that we went from--as I said, we had seven full-time employees. We had a chauffeur, we had a chef, we had a butler, that type of stuff. It was huge. It was a twenty-bedroom house, just me, my mom and dad and my brother, which is kind of scary, because it was kind of big and empty. I was scared of the ghosts. [laughter]

Nonetheless, [when] we came here, there was really not a lot of money. My dad went from running our family business, which included a coffee plantation, to--I think the first job he got (he didn't speak English) was as a janitor in a factory in Philadelphia, something like that.

I remember, the refrigerator had broken at one time, and so had the car. There was not enough money to fix both, so, we fixed the refrigerator. My dad would walk to the bus station, take a bus into Philadelphia, in the midwinter and all. The thing about it is, I never heard him complain. I never heard him say, "Why us? Why us?" It was always, "God does things for a reason; God will provide." So, I grew up with that.

SI: When you came here, though, did you get on a plane or a ship?

Justice Fernandez-Vina: Oh, we came by plane. Yes, we came by airplane. Then, as I said, I started fifth grade. I didn't speak a word of English. I didn't know how to ask to go to the bathroom until, like, probably Christmastime. Then, I heard something about, "Blah, blah, blah," then, you raise your hand and they give you a pass for the lavatory. I used to point to what I wanted to eat in the cafeteria, but I learned English very quickly.

SI: Yes, it sounds like it was "sink or swim."

Justice Fernandez-Vina: Yes. Then, I went to Haddon Heights High School and I played football there. We were an undefeated state championship team. I was captain of that team. Then, I was home, because some scholarships that I had been offered, I didn't like.

Then, Coach Manlove called me. He had just taken over Widener. Widener had been renamed--I think it was Pennsylvania Military or something like that. I didn't really want the military, but it wasn't anymore. So, he called me and he said, "We hear you're home--would you like to play here? We have money."

[Editor's Note: Widener University in Chester, Pennsylvania, was known as the Pennsylvania Military College from 1892 to 1972, when it adopted the Widener name. William B. Manlove, Jr., served as the head football coach at Widener from 1969 to 1991.]

I said, "Well, I don't know--I want to play bigger." He says, "Well, we're not waiting for you to learn how to play, we have a UCLA transfer, a Maryland transfer, a Virginia Tech

transfer and a Florida State transfer, we have an Iowa transfer, already signed with us. We're going to be pretty darn good."

We were very good. We were 24-3 in the four years I was there. Four of my teammates went on to play in the NFL--one's an All-Pro center for the New York Jets and the other one's in the Hall of Fame.

[Note for AC: Widener's records show they lost a few games (24-3 for the three years under the Widener name) while the Justice played there. Should we just ask him to rewrite it instead of a correction?]

As a matter of fact, when I got sworn into the Supreme Court, we were in a secure room--the Senate and the police and the Justices and the Governor--in the back. They had flown in. My secretary came and said, "Billy Johnson is here for [the ceremony], but they [stopped him]." I said, "Well, bring him back here." She said, "Well, the State Troopers are holding him."

So, I went out, said, "Hey, guys, that's Billy 'White Shoes' Johnson," said, "Oh, yes, bring him in." Next thing you know, I lost him. He was doing the touchdown dance for Justice Patterson and Justice LaVecchia and he was signing an autograph for the Governor. [laughter] So, he was the star of the show, even though it was my swearing-in ceremony.

[Editor's Note: Wide receiver and return specialist Billy "White Shoes" Johnson played in the NFL from 1974 to 1988, primarily for the Houston Oilers and the Atlanta Falcons. The Justice's Widener teammate, Joe Fields, played for the New York Jets from 1975 to 1987, where he was a four-time All-Pro selection and a long-time team captain. Chris Christie served as Governor of New Jersey from 2010 to 2018. Justice Anne M. Patterson currently sits as an Associate Justice on the New Jersey Supreme Court, having been sworn in in 2011. Justice Jaynee LaVecchia joined the New Jersey Supreme Court as an Associate Justice in 2000 and served until 2021.]

Billy's a great guy. We still get together. We get together every few months to have dinner, like some of my teammates, a lot of my teammates. So, that's about it.

SI: Was Haddon Heights High School the first time you played football, or had you started earlier?

Justice Fernandez-Vina: No, I played [earlier]. I had no idea what football was. One day, I was walking home from Woodland School, which was the elementary school. I saw some kids with helmets and all that. So, I followed them. I realized that they were [playing football]--I'd seen it on TV.

So, I asked if I could play and they said yes. The coach came with me by my house to get my mom to sign. My dad said, "If she had known what football was, she would've

never signed," because she came to every game, but never saw it. She had her eyes closed the entire time.

Yes, so, I started playing in fifth grade, when I'd just got here. That's how I got the nickname, because the Green Bay Packers were big back then. There was a guy by the name of Fuzzy Thurston who was [popular]--he just passed away, as a matter of fact. One of my teachers went down to watch one of the games. He said, "So, you're really good--you're going to be the next Fuzzy Thurston." Since I don't think anybody could say Faustino anyway, so, it became "Fuzzy" and I've been Fuzzy since.

[Editor's Note: Frederick Charles "Fuzzy" Thurston (1933-2014) played offensive guard for the Baltimore Colts (1958) and Green Bay Packers (1959-1967).]

SI: Do you know why your father picked Haddon Heights?

Justice Fernandez-Vina: No, I don't know. I really don't. We'd been there--Barrington, actually, which is, like, we all go to Haddon Heights High School. That's just a separate, little town next to Haddon Heights. They're all little towns down here. I don't know. You go through it--you come up the White Horse Pike--you're going through Collingswood, Westmont, Audubon, Haddon Heights, Barrington, Magnolia, in the space of, like, ten feet. [laughter]

Anyway, so, that's how I got to Rutgers [university]--and I wasn't really planning on going to law school. My mom said to me, says, "What you're doing is a lot of fun, but, when you're in your forties, it's not that good," says, "I brought you a law school application for Rutgers." I said, "Okay, I'll fill it out." She said, "Please fill it out now, because I'm going back to work. I'll take it and drop it off by hand," and I got accepted. I guess that's how I'm here.

SI: We talked about your father. Tell me a little bit about your mother. What was she like?

Justice Fernandez-Vina: My mother had a PhD in psychology from the University of Havana. Then, she got a doctorate (also a PhD) here at the University of Pennsylvania. My dad had [been] a college graduate from University of Havana, but he just ran the family businesses. When he came here, he became an optician here, because it was something to do.

They never spoke English very [well]. My mom was better at it than my dad, but they struggled with it a bit, which was really kind of difficult for them. Like, if my dad went to the store and he was going to pay by check, I'd go with him.

Here's a guy who was used to writing million-dollar checks, but he didn't know how to spell "thirteen" or something like that. So, I would bring a piece of paper and a pencil. If it was thirteen dollars, I would write it real fast and slide it to him, because he was afraid

people were going to think he was illiterate or something like that. He just didn't speak much English.

So, it was difficult for them, but they never complained about anything. They were very, very religious and very tough, very strong, strong people.

SI: What role did religion (or going to church) play in your life?

Justice Fernandez-Vina: I believe in God, I have faith and I go to St. Rose. I've been going there for [decades], I sit in the same place, a big church in Haddon Heights. It's the Catholic church there.

I sit in the third row from the back, on the aisle. It's funny, because a lot of my former teammates from Heights, they come. We're friends, and then, we all sit in the third row from the back.

There was a priest there (who the Bishop moves them around), but I watched him grow up. He's the little brother of a friend of mine, Father Byerley. One day, when I had all the eye surgeries, I had all the problems with the eyes--I lost my eyesight for a while. My left eye's gone, my right eye's not great, but, thank God, I can still see, because it was horrible not being able to see.

I came back to church, because I could now get myself there. He was up there with somebody and he came back. He hugged me, congratulated me. He said to those guys, says, "Isn't it nice to have 'Has-Been Row' back together again?" [laughter] So, we're "Has-Been Row" because we're old "has-beens."

SI: Growing up, was it a big part of your life? Were you an altar boy?

Justice Fernandez-Vina: No, I was never an altar boy, [laughter] but, yes, I've always gone to church. I have prayed every morning on my way to school, going to high school, college, law school--and every morning on my way to work at the law firms, courthouses. I just pray every morning.

I just pray, "Please let me know what the right thing to do is and please give me the courage to do it." Of course, that changed a little bit when I went to the Supreme Court, said, "Please help me convince at least three of the others, so [that] we can get a majority." [laughter]

SI: Tell me a little bit more about Haddon Heights High School. You were on the football team, but were you interested in other things?

Justice Fernandez-Vina: Well, I had good enough grades that I was able to get into college and I had really high SATs. I guess I'm a good test-taker, I think, but it was a great place. We were undefeated state champs. So, matter of fact, I'm in the hall of

fame there, for what that's worth. I'm in the South Jersey Football Hall of Fame, too--not that I was that good, I think they just ran out of good players. [laughter]

[Editor's Note: Justice Fernandez-Vina was inducted into the Haddon Heights High School Athletic Hall of Fame in 2009. In June 2010, he was inducted into the South Jersey Football Hall of Fame.]

SI: I am sure you were. [laughter]

Justice Fernandez-Vina: And I know you interviewed Justice Wallace. I've known him--I coached at Collingswood while he was coaching at Washington Township. So, we'd run into each other. He played at the University of Delaware.

[Editor's Note: [Justice John E. Wallace, Jr.](#), served as an Associate Justice of the New Jersey Supreme Court from 2003 to 2010.]

SI: Yes. Were your parents always pushing you to do better, in terms of aspiring to go to college, that sort of thing?

Justice Fernandez-Vina: Yes, yes, always, always. I was going to go, I wasn't going to [not go]--although, summers, I enjoyed. I used to work as a roofer and I used to work at a couple bars as a bouncer.

SI: You started working right away--in high school?

Justice Fernandez-Vina: No, no, in college and after that, during law school. It was always a concern with bouncing, because you're in law school and you're afraid, that you don't want to have a problem, but you have to do your job. It pays well.

[Note to Justice Fernandez-Vina: Can you clarify what you mean by, "and you're afraid, that you don't want to have a problem?"]

Plus, the easy thing about it is, you're at the door and there's usually two. So, I would let the other guy do all the carding people and I would study, until there was trouble. Then, I'd close the books and go take care of the problem, but, at a regular job, you can't study.

SI: Were there any teachers or coaches that stand out in your memory from high school?

Justice Fernandez-Vina: Coach Horner, our head coach, is a fantastic guy. As a matter of fact, we still get together once in a while. He's older now and he's been having some difficulties, but, once in a while, we get together for lunch and all. He always says I was his craziest player, but, also, his toughest and his favorite. And Coach Manlove at Widener was a great coach and a fantastic human being.

[Editor's Note: James Horner served as the Haddon Heights High School football coach from 1969 to 1975.]

SI: Do any games or field experiences from high school stand out in your memory?

Justice Fernandez-Vina: No. We beat everybody pretty good in my senior year. One team, because one of the coaches was coaching when I was playing and he retired, I was talking to him, he said, "We thought you guys were pretty good."

He said, "We went to scout one game and you won 35-7. We thought, 'Well, they had a good game.' So, we went to that next one and you beat them 50-6. Then, we went to the next game, 'Let's get a third game in, make sure,' 71-0. So, we came back to the meeting and said, 'We can't beat them. No matter what we do, we can't beat these guys.'" [laughter] Yes, we were pretty good.

SI: Tell me about what you were interested in before you went off to college. Were you somebody who followed the news? Were there any subjects you were interested in?

Justice Fernandez-Vina: No, no. I don't even watch the news now.

SI: Okay.

Justice Fernandez-Vina: I don't need to get aggravated, but, yes, I know what's going on in the world. Obviously, I'm not in a vacuum, but, no, I just enjoyed cars. I had a six-hundred-horsepower Corvette that I worked on the engine myself to get to that horsepower, when I was in college. Then, after that, I bought Jaguars. Now--I just got rid of one--I had two Maseratis, but I decided one was enough. So, I got rid of one. I've always liked cars.

SI: How did you learn to be so handy with cars?

Justice Fernandez-Vina: Just friends of mine had cars and they worked on them. So, I watched them.

Some of the stuff now, the electronic stuff--I don't even know how to work my phone, let alone [a car]. I just learned how to send an email about a month ago. I had law clerks and my secretary, "Could you send this email out for me?" [laughter] I just learned how to type in the email address and hit send.

This new stuff, I couldn't figure out, but, in the old days, you had carburetors and fuel injection, but it was the mechanical fuel injection and stuff like it. That was a little easier to figure out. If I opened up a hood now, I'd have no idea what anything is in there.

SI: Tell me about getting to Widener. I guess your first experience would be summer camp, for training?

Justice Fernandez-Vina: Well, yes, football practice starts in like early to mid-July. So, we were there for a while before school started.

After that, you hear from the upperclassmen which classes the professors like football players. [laughter] So, you get the info, just like you got a scouting report for the other teams. It was easy, I mean--same with the LSATs. I'm a good test taker.

SI: What was it like that first year? What position did you play?

Justice Fernandez-Vina: I played outside linebacker. Then, we went to (Houston Veer) and they made me gain like twenty pounds and play guard, because Billy Johnson was running the ball and we didn't have any linemen [that] could get in front of him. I know, on some punt returns, I would be deep with him and just be his lead blocker and stuff like that.

I would say everybody was faster, better, bigger. There were no slouchers that you could pick on. Everybody was pretty tough. I mean, look, even in practice--like I said, our center was All-Pro center for the New York Jets and our middle linebacker was drafted by the Dolphins, played for the USFL--so, they had a battle every single day that was [brutal].

So, it's just everybody's better. If you're going to a big school, like Michigan, Ohio State, everybody's the best player ever in their high school. It's tough to crack the starting lineup. I always laugh when I hear people say, "He's not that good. He doesn't show me that much."

I remember, when I was coaching at Collinswood, we had a young man who played for Purdue, starting wide receiver. There was a man at the bar and he said, "Oh, he's not that good. He didn't show me much against Notre Dame." I said, "Excuse me, how did you do against Notre Dame?" [laughter]

SI: Does anything stand out about how the game was played then?

Justice Fernandez-Vina: Yes, guys are bigger, faster, stronger, for sure. [laughter] No, I think it's still the same.

When we talk, when we're watching the game, somebody will come and say, "Can you believe they're 'Cover 2?'" stuff like that. People, like if I'm watching with friends that don't play, they say, "What are you talking about?" or, "They should go 'twins left,'" or, "They're never going to stop the 'Counter Trey' if they don't walk up the strong safety," stuff like that. So, we talk in like those kind of terms.

SI: What would you say is your most memorable game (or maybe a few) at Widener?

Justice Fernandez-Vina: Well, I guess Fordham, because (I hate to say this), we beat them pretty bad, but they punted to Billy five times and he returned all five for touchdowns. One of the appellate judges said, "I can't believe that." I said, "No, what I can't believe is that the coach kept punting to him." I said, "He returned the first three--you'd think he would've punted out of bounds or something like that," but I remember that.

I mean, Billy's great, just a good guy, but all those guys, we got along very well. Like Coach Manlove said one time, he says, "When you're undefeated and you're beating everybody by a lot of points, there are no fights on the team. There's no anything." He says, "The coach who should be coach of the year should be the guy who's got an 0-10 team and still can put a team on the field." So, no, we kind of beat everybody, but I remember that because it was an NCAA record that I think is still unbroken.

SI: Tell me a little bit about your coach, maybe some other coaches on the staff--were they important to you?

Justice Fernandez-Vina: Well, Coach Manlove, our head coach in college, is a great guy. Like I said, he still comes to our dinners here. He's in his nineties. He's just one of the nicest, smartest, most knowledgeable [men]--even back then, he was running scouting reports that had team tendencies and all.

You'd test it on Saturday before the game, "If they come out in this formation, what are the tendencies and what defense should we be in to stop this?" and all that. If you didn't grade eighty percent, you didn't start, which was, I think, pretty innovative for that time, using computers back then--this is back in, what? '74, I guess, '73? Yes, he's still real sharp again.

Coach Horner was a very tough guy, very good coach, played at Rutgers. Like I said, we still get together. Coach Manlove comes to our dinners; I get together with Coach Horner for lunch once in a while. When I lost my eyesight, he would come to the house, like at least once a week, with his wife, to take me out to dinner, so [that] I could get out of the house.

SI: Deep bonds.

Justice Fernandez-Vina: Yes, yes. Well, it's a war out there. [laughter]

SI: You had this very successful team. What was it like being on campus as part of that? You do not have to tell me all the details.

Justice Fernandez-Vina: [laughter] No, it's great. It's good, it's good. I mean, you're treated differently by people.

SI: You mentioned you would decide to go to law school later, but what were you majoring in or most interested in?

Justice Fernandez-Vina: I majored in history. I enjoyed that. There was no way I was ever--we had mandatory (some) science classes and I had no idea what I was doing. [laughter] So, yes, I enjoyed history, and English, too. I didn't take any foreign languages in college, even though I could've cheated and taken Spanish.

SI: Going back to growing up in New Jersey, were there things from your heritage in Cuba that your parents tried to keep up in your household?

Justice Fernandez-Vina: Well, we spoke Spanish. Then, we always talked about--but not in a longing way--but just what it was like, so [that] you remembered.

My niece, my brother's daughter, she graduated, got her doctorate from Penn, but she was on vacation in Barcelona. She sent me a photo of a big street and there was a sign. Street was called "[Calle] Valeriano Fernandez-Viña." So, she texted, said, "Uncle Fuzzy, is that someone I should know?" I said, "Yes, he's your great-great grandfather." So, that kind of stuff, I know.

SI: Food or holidays?

Justice Fernandez-Vina: Oh, we ate a lot of paella. Even my mom would learn how to cook--she never cooked before. I remember the first time she made spaghetti. [laughter] It was like "lump-ghetti." I said, "Cut me a slice of spaghetti, would you?" The first time she had to wash dishes, we didn't have a dishwasher, her hands hurt--but you get used to it. No, like I said, they never complained about anything ever.

SI: She worked when she was here.

Justice Fernandez-Vina: Yes, yes.

SI: As a psychologist?

Justice Fernandez-Vina: Yes.

SI: One more question from when you were younger--did you come here before or after the missile crisis?

Justice Fernandez-Vina: After.

SI: After. You were there.

Justice Fernandez-Vina: Yes. I was in bed when my dad came in the room and said, "This is happening," in Cuba. I was in bed in Cuba. Yes, so, we came right after that, I think. That was in '62, too, I think.

SI: Yes, October.

[Editor's Note: In October 1962, the United States demanded that the Soviet Union remove its nuclear missiles from Cuba. The United States placed a naval blockade around the island nation, creating a tense standoff between the superpowers that many feared would lead to nuclear war. The crisis was averted when the Soviet Union agreed to remove their nuclear missiles from Cuba in exchange for the United States removing its nuclear missiles from Turkey.]

Justice Fernandez-Vina: Yes. I think we came like a little later than that; no, it was around then. Yes, we came right around then, because I remember I was in Cuba when that happened, but I was here for later. So, it was around that time I came.

SI: What did they tell you?

Justice Fernandez-Vina: They didn't say much about it. That's one thing--when I came here, somebody's interviewing me. I mentioned my dad was on two death lists and stuff like that. He said, "What'd you do about that?" I said, "You learn that you get smart very, very fast. You don't volunteer any information to anybody, ever, about anything. You just don't talk about anything. You don't discuss anything."

As a fifth grade [student] (I guess fourth grade there) in Cuba, the ammunition for Fidel Castro would come into the docks at night. The priests would go down there and get it. Then, they'd put it in our school bags to bring out, because Batista had soldiers at every intersection coming out of town towards the suburbs. Then, what happened, Castro's soldiers would be coming at night and knock on your back door. You'd give them the ammunition and all that stuff.

So, they caught [resistance fighters]. They were searching every car. I'd see people, laying on the street dead, every day when we went to school. They had been caught up with something. So, the priests would put them in our school bags and we'd bring them out in the school bus. They taught us how to pull the pins on the hand grenades, in case soldiers ever came on the bus--pull them and run out the back door, blow the bus up.

Then, Castro's people would come at night, knock on your door. I remember, one night, we're sitting outside in the dark. It was after dark. I think the butler had just brought coffee to my mom and dad. A car came down the street real slow, with the lights down.

My mom said to go and get in the house. By the time they were at the intersection, two Batista military jeeps cut them off. They had machine-guns. They just started shooting into the car and killed them all.

SI: Wow.

Justice Fernandez-Vina: One, they dragged out. I think he was still alive a little bit, literally on the ground. Then, my mom sent some of the maids out with buckets of water to wash the blood.

[Note to Justice Fernandez-Vina: With respect to the language in the parentheses, it is not clear from listening to the tape what was said here. Could you clarify or should it be deleted?]

As a side story to that, when we first came here, that first Christmas, we were in Philadelphia at, I think it was Lit Brothers. John Wanamaker [department store] did a Christmas show--with my brother, in our little suit and ties, they had snow--and a car backfired.

We both dove for the curb immediately, because, if you're on the street, you want to get between the curb; you don't want to be on top of the sidewalk. You want to get against the curb, so [that] you had a little bit of cover. It was all that slush and spit. [laughter] So, we had to go home and get showered up. We came up covered in spit and snow and everything. So, yes, we dove. As soon as that car backfired, we just, without even questioning it, dove for the curb.

SI: That is a bit different. Did that persist, that heightened tension?

Justice Fernandez-Vina: No, no. Yes, if I hear a car backfire now, I don't dive into the curb. [laughter]

SI: Wow.

Justice Fernandez-Vina: But, yes, we were--I guess I was in fifth grade, so, he was in third grade, I guess.

SI: Did your parents, particularly your father, stay active in any Cuban or Cuban American groups, any anti-Fidel Castro-type things?

Justice Fernandez-Vina: No, no. He just went about his business, went to work and stuff. He was tired of that, I think.

SI: You are at Widener. This is the era of the Vietnam War, at least the first few years, and the Civil Rights Movement, a lot of social changes. Does any of that stand out in your memory?

Justice Fernandez-Vina: No. I remember, obviously, I wasn't going to be a defector or a conscientious objector, but I had a very low number and I was very happy about that. One of the main reasons is because I knew friends that had come back. They said, "That place is loaded with snakes," and I'm terrified of snakes. I thought [to] myself, "That's all I need, to see a snake," not that I wanted to get shot or killed or anything like that, but I was more worried about a snake. [laughter]

SI: At Widener, you played all four years.

Justice Fernandez-Vina: Yes.

PART 2 OF 3

" I Always Wanted To Be Out There, In Battle:" Stories From Law School to the Superior Court

Justice Fernandez-Vina describes how he came to study law at Rutgers Law School-Camden. He then carries out an intertwined discussion of law school, his law practice and his time on the Superior Court. He recalls issues related to his law school professors, appearing before judges across the state as a practicing attorney, and, as a Superior Court judge, deciding the case that allowed Camden to replace and reorganize its police force in the early 2010s. He describes his work as, first, a presiding judge, then, the assignment judge in the Camden Vicinage.

SI: Did you have any idea of what you wanted to do after school?

Justice Fernandez-Vina: No, I really didn't. I mean, in the summers, I used to do roofing and siding. So, I started doing roofing and siding, working in bars. Then, my mom said, "They're good jobs now that you're young, but they're not real good [in the long run]. So, here's an application to Rutgers Law School. I picked it up on my way home." So, I filled it out and took the LSATs. As I said, I'm a really good test taker.

SI: We do not have to get into all the jobs you had, but that experience of having blue-collar jobs, how do you think that affected your worldview when you were a lawyer and a Justice?

Justice Fernandez-Vina: Well, it's funny, I'm used to seeing [trouble brewing]; I can tell. I was with some friends at a bar in Philadelphia a while ago. It's pretty loud, pretty big. I said to his wife, said, "There's going to be a fight over there," and you couldn't hear anything--next thing you know.

She said, "How'd you know?" I said, "You can tell, because when people are talking politely, they're in sync. When there's an argument of some kind, they're herky-jerky." I said, "I saw it was coming," but the bouncers got there--other than that, no. I mean, I just went to law school.

I tried cases all over the state. I tried probably more cases--I know, because one of the Senators asked me, said, "Is it true that you've had cases in every vicinage?" I said, "Well, respectfully, some vicinages are three counties," because, down here, Gloucester, Cumberland and Salem are one vicinage. I said, "I have verdicts in all three of those counties." I said, "I have verdicts in every county in the state," and not just one, like, I showed up one day--a lot of them.

On Friday, I used to put four or five briefcases in the trunk of my car. I'd go to the first one. If [the case was] not reached for whatever reason--no cell phones yet--I'd get on a payphone on the wall, and then, say, call down to Burlington, "This case was not reached. If you still have a judge available, I'll come there. If not, I'm going to head to

Atlantic City," or something like that. So, I tried a lot of cases. I tried mostly, well, products liability, dram shop--when the laws changed, we represented just about every bar in the state--and legal malpractice.

SI: Tell me about going to Rutgers in Camden. What stands out about that first year, for example, your professors?

Justice Fernandez-Vina: Everyone was very [smart], the professors were good. It was a lot harder than college. I actually had to start studying a little bit, but I really enjoyed it. Law makes sense if you do it right. So, I really enjoyed it. I've never been shy about talking to anybody, so, that was helpful.

Then, once you try cases all over the state, the judges get to know you. They know that you stand by your word. You're going to try to win, but you do it properly, within the rules. I had no problem with any judges ever, I don't think. I mean, sometimes, I probably pushed the envelope a little bit, because that's what you've got to do as a trial attorney, but it was a great experience.

Legal malpractice was probably the toughest, because your clients are very difficult, as we all are. I'm sure if I was sued, I would've been difficult, too, but I'm not saying anything. It's a tough area, but I enjoyed it, representing lawyers. It was fun.

SI: Was that an area of interest you developed at Rutgers or later on?

Justice Fernandez-Vina: No, no. We'd get the clients in (the law firm would get the clients in), and then, it was a question of, "Who's going to drive to Newark to try the case?" "I got it, give it to me. I don't care."

SI: In law school, did you do anything else, like law review or moot court?

Justice Fernandez-Vina: Well, there was a moot court that was mandatory for all the first-year students. So, I did that, but, no, I was never on law review or anything like that. I was on the intermural football team. [laughter]

SI: Okay, I am sure they were happy to have you. [laughter]

Justice Fernandez-Vina: Yes, but, other than that, no; no, just I came, studied. Actually, I used to copy the stuff and take it home, because I didn't feel like sitting in the library. That copy machine took a lot of my money, [laughter] copied stuff to take it home to read.

SI: You were also working your way through. Were you working in either Camden or Philadelphia, or was it at the Shore?

Justice Fernandez-Vina: Well, Camden. I never worked over in Philadelphia then, no--Camden, several bars over there. Yes, during the school year, it was just Camden.

SI: Your career would take you through Camden quite a bit.

Justice Fernandez-Vina: Yes.

SI: What stands out about working in the city at that time?

Justice Fernandez-Vina: I never thought much of it, I mean, for good or for [bad]--I think for good, because Camden's become a lot safer--but I'm the judge that disbanded the former police force, and so I know. As a matter of fact, I can remember when my sheriff came in, the court sheriff, said, "Your Honor, we're ready." I was the assignment judge, the chief judge in Camden.

[Editor's Note: Following major state budget cuts in 2010, the Camden Police Department initiated layoffs, eventually eliminating approximately fifty percent of its force. Over the next few years, violent crime spiked in Camden and its homicide rate became one of the nation's worst. Governor Chris Christie led a bipartisan effort to disband the unionized Camden Police Department and replace it with a larger, but less costly, police force run by Camden County.]

Actually, when I started, I was in Civil for about two years, and then, I was in family for about four or five months. Then, Chief Justice Zazzali made me Presiding Judge of the Civil Division when I'm only two years in. Then, about five years later, Chief Justice Rabner made me the assignment judge. Then, after that, I went to the Supreme Court.

[Editor's Note: Chief Justice James R. Zazzali served as an Associate Justice on the New Jersey Supreme Court from 2000 to 2006, when he was elevated to Chief Justice, serving until 2007. The Honorable Stuart Rabner has served as Chief Justice of the New Jersey Supreme Court from 2007 to the time of the interview.]

I remember, I went like this [the Justice imitates putting something on his head]. The Sheriff said, "What are you doing?" I said, "Putting the helmet on--it's game time," and she started laughing. It was a difficult case, but I think it was very much the right thing to do. Camden's become safer as a result of a lot of things, but especially that, I think.

SI: Going back to your early career, after you graduated, you clerked for Judge Fluharty.

Justice Fernandez-Vina: Fluharty, Judge Fluharty, yes, yes.

[Editor's Note: The Honorable E. Stevenson Fluharty served as a NJ Superior Court Judge from 1981 to 2000.]

SI: What was that like?

Justice Fernandez-Vina: Oh, it was great. What I learned is--civil procedure's a difficult course in law school, confusing. [laughter] After a year as a clerk, you understand that it was really very simple, you just didn't understand it. Then, after Judge Fluharty, I went out in private practice and started trying cases.

I always wanted to be a trial attorney. I didn't want to be sitting in a room writing wills or contracts, stuff like that. I always wanted to be out there, in battle. You can actually win. There are very few jobs in life where you can actually win or lose, like in a game. You can do a great job, like painting a house or drafting a contract or something like that, but, in litigation, you actually get a jury to tell you, "You won," or, "You lost." I really enjoy that.

SI: Do you think there is a tie between your football experience and your desire to be a trial lawyer?

Justice Fernandez-Vina: Probably, yes, probably. It's adversarial--so is football, [laughter] very adversarial. So, yes, I always enjoyed that.

SI: Maybe your first or first few cases, what stands out about that experience?

Justice Fernandez-Vina: [laughter] The fact I had no idea what I was doing.

SI: Okay.

Justice Fernandez-Vina: I won them, but I don't know how. What I used to do, sometimes, I'd take--like, even for a deposition--I'd find a deposition on the same issues. I would photocopy the few pages and I had them in my file. In case anybody objected to something, I'd just say, "Okay, I'm going to ask these questions. I know they're okay because an experienced lawyer asked them." After a hundred or so depositions, it's easy--same with cross-examining, even opening summations and all that--just it's an art more than a science.

SI: Would you say you learned that art at your first law practice?

Justice Fernandez-Vina: Yes, yes, right away, right away. I mean, I'm a good test taker, but I'm also very competitive. I remember, when I'd come home sometimes during the football season--if we played a home game, I'd come home to see my mom and dad--the kids in the neighborhood said, "We want to play touch football in the street with you."

So, if they were passing, I'd, like, swipe it into a bush or something like that. My mom would say, "What are you doing?" I said, "I don't want them to go home and tell them they caught a pass on me. [laughter] What, are you kidding me?" I said, "Nobody's catching anything on me."

SI: You got into legal malpractice, which is a theme we will probably touch on a few times. What stands out about the way it was handled when you first started your career?

Justice Fernandez-Vina: Well, I think it was a little easier. It was easier to get adjournments if you're not ready. Then, when best practices came in, it became more difficult. Once you got used to it, it's like anything else, you get used to it. It's only hot in the summer until you get used to the heat, and then, you're okay. I think I had it fairly easy, because the judges knew me and they knew I was going to try it if I was available.

So, I would send a letter out on, like, Thursday of the week before, "The above six cases are listed. I'll appear at the oldest first. If not reached, I'll go to the next one," and they knew I wasn't hiding somewhere. They knew I'd be coming down, I'd fight the case, then, get reached.

So, they treated me with [respect]. Even with motions, a lot of judges would say, "We're going to take Mr. Fernandez-Vina first, because we know he probably has to be [in] several other counties arguing motions today," and I'd say, "Thank you, I do." The judges were very good about helping me out with that stuff.

Of course, I like to think that's because I never made stupid arguments or [did] outrageous stuff. I tried to settle cases. If you couldn't, you couldn't, but, then, I tried them. Then, you're going to lose, but, if I could settle it, a good settlement is better than a trial any day of the week for your client, because you never know. Judges, I think, appreciated that.

SI: One case I think we wanted to talk a little bit about was one you tried when you were with [the Law Office of John J.] Spence in 1989, the A&S case, *Livingstone v. A&S* [*Livingstone v. Abraham & Straus, Inc.*, 111 N.J. 89, 543 A.2d 45 (1988)]. It had to do with a parking lot, I believe.

Justice Fernandez-Vina: Oh, no, no, that's a Supreme Court opinion I wrote.

SI: This is a case, I think, you worked on as well before you were on the bench.

Justice Fernandez-Vina: Oh, I don't remember much about it.

SI: Okay.

Justice Fernandez-Vina: There were so many of them, you know what I mean. There's so many of them, I don't remember. I know there's that *Livingstone v. Abraham & Straus*, which was not a case I wrote the opinion on, but I wrote an opinion based on that. That's what I thought you were talking about.

SI: All right, but you were not an attorney on that case.

Justice Fernandez-Vina: Oh, no, on the *Livingstone* case that I wrote the opinion? No, I was a Supreme Court Justice.

[Note to AC: The Justice mentioned the *Livingstone* case during our pre-interview meeting, but I must have misinterpreted something and/or messed up in how I presented the topic.

SI: Okay. Are there any other experiences in the court to add, from those years before you went on the Superior Court?

Justice Fernandez-Vina: The Superior Court?

SI: No, as a trial attorney.

Justice Fernandez-Vina: Oh, no, I just tried a lot of cases. Judges, I thought some judges were more knowledgeable about the rules of evidence and others weren't as much, but I just tried them--and won most of them. Nobody goes through life undefeated, let me tell you, but very few losses and [they were] understandable. So, sometimes, you just don't have the facts, but you still have to try the case.

SI: Are these long cases? How long does a case take?

Justice Fernandez-Vina: It all depends. Some of these, because you're also doing some auto negligence, they don't take long. Well, it's funny, because a lot of people sometimes have a disdain for automobile. The injuries can be just as complex as any medical malpractice case. I mean, you have to know as much. "Who hit who? Where?" that's a little bit easier than whether the doctor deviated from the standard of care or something like that.

As far as that, you have to prove your injuries or defend against [an accusation?]-that can be as complicated in a simple little rear-end hit as it is in a medical malpractice case. People get hurt and have complications. No, I just prepared and did my cross and my direct--and won and moved on. You didn't catch that--I said, "I won and moved on." [laughter]

SI: 1998 was when you were elevated to the Superior Court.

Justice Fernandez-Vina: Was it '98?--let me see.

SI: It was during Jim McGreevey's term.

Justice Fernandez-Vina: Yes, it was during McGreevey. Yes, I just saw him the other day. Yes, it was during McGreevey, but I don't think it was '98. I think it was after that.

SI: After that? Yes, we can put that in later.

Justice Fernandez-Vina: I want to say 2004, maybe.

SI: Okay.

[Editor's Note: James Edward "Jim" McGreevey, a Democrat, served as Governor of New Jersey from 2002 to 2004. Justice Fernandez-Vina was elevated to the Superior Court in 2004.]

Justice Fernandez-Vina: Yes, I'm pretty sure it was 2004. I remember because Chief Justice Zazzali made me Presiding Judge of the Civil Division about four years after that. Then, I became assignment judge when Chief Justice Rabner became the Chief Justice. I don't know when that was either, but I went to the Supreme Court in--when did I go to the Supreme Court?

SI: 2014.

Justice Fernandez-Vina: Yes, 2014, something like that, yes. [laughter] I don't keep track of dates.

SI: No, I understand. [laughter]

Justice Fernandez-Vina: I just know I was there.

SI: Tell me how you found out what the process was then of getting on the Superior Court.

Justice Fernandez-Vina: I didn't know much about the process at all.

SI: Did you have to be vetted in any way?

Justice Fernandez-Vina: Oh, yes, you are, but I remember, I think John Adler called me, who's since passed away. He was--I'm a Republican, but he was a Democrat--but a great guy. I get along with everybody pretty much, unless they get on my nerves. Then, I don't.

[Editor's Note: John Adler (1959-2011) served the New Jersey Sixth District as State Senator in the New Jersey Legislature from 1992 to 2009. He served on and chaired the Senate Judiciary Committee during his tenure.]

He asked me about, "Did I want to be a judge?" I think Judge Orlando was the assignment judge, who was a lifelong friend of mine, mentioned my name. So, I said, "Yes, okay." Then, I went through. I really didn't understand the process that well.

[Editor's Note: Judge Francis J. Orlando, Jr., served as a New Jersey Superior Court judge for twenty years in the Camden Vicinage, including sixteen years as its assignment judge.]

I met with Governor McGreevey. I met with some of the Senators, but mostly through the Senate Judiciary Committee, not [personally]. With the Supreme Court, you meet with them individually. Superior Court just met with the group--and pretty smooth sailing.

I remember because some of my--we call it "baby judges" class. [laughter] You're there thirty years, you're still in your "baby judge" class. Next month, it's at the Judicial College, and you'll see signs there, "2002 Baby Judges Class will meet for dinner." It's just called "baby judges" class, but I remember, like, some of the guys were grilled a little bit.

I remember it was John Adler, said, "Welcome aboard, Fuzzy." Then, I think that the Co-Chair was Bill Gormley from Atlantic City, the Republican. He said, "Fuzz, I haven't seen you in a while." So, these guys [his "baby judge" classmates] swear that I have dirt on them, because they didn't ask me anything. [laughter] They always give me a hard time about it. The judges will say, "Oh, yes, they didn't ask you any questions," but, [for the] Supreme Court, they asked me questions.

[Editor's Note: William L. "Bill" Gormley represented New Jersey's Second Legislative District in the New Jersey Senate from 1982 to 2007.]

SI: How do you prepare yourself for this new role?

Justice Fernandez-Vina: Here?

SI: No, as a Superior Court judge.

Justice Fernandez-Vina: Well, I wasn't that worried about it, because it's litigation and I'd tried so many cases. As a matter of fact, I tell the young attorneys (I give them advice), I say, "Look, get your rule book--bring it over here. I'm going to highlight in yellow the rules you need to know, and memorize those," because when you object by rule number and you mention that, you will impress the judge at the beginning. [It will help when you need to say], "I have an issue," and it'll help you with the rulings.

Rulings could go many ways, but, if you're confident and you say, "Objection, Your Honor, 804 [404]," or, "Objection, under Rule 804 [404], prior custom of habit, inadmissible," or something like that, or that's "prior bad acts." I'm sorry, 806 [406] is "custom and habit." [laughter] See, I still have it memorized.

"But, some of them, you'll never need, like, for example, the priest-penitent privilege or newspaper [self-authenticating?]." I say, "Don't read that. If you have a problem with that, you know it's there. Look it up, just know it's there, but there's some that you

should know, have at the tip of your tongue for trial. If you do that, judges realize that you really know the rules and all."

Judge Sabatino always talks about, when he teaches class, how he always used to [discuss that], because he's big on the two I mentioned, 804 [and 806]. You say, "Objection, sustained, prior bad acts." "No, Judge, I'm offering it on a custom and habit, so, 806." So, we've been having a discussion. Judge Sabatino still talks about that, but, if you know the rules--and, also, be fair, don't pull dirty stuff--judges will recognize it, and they'll treat you properly.

[Editor's Note: The Honorable Jack M. Sabatino has served on the NJ Superior Court since 2001. From September 2022 to July 2023, he temporarily served on the New Jersey Supreme Court to fill the opening left by Justice Barry T. Albin, who retired.]

SI: What about, again, your first few cases on the bench? What stands out about those? I am just asking about the experience--you do not have to remember the cases themselves.

Justice Fernandez-Vina: Well, I'll tell you, I had been heard, argued a motion, like I said, in every county in the state, every vicinage in the state--and a lot of them. So, on my first motion Friday, I had reviewed the case I had myself. So, I see it's almost nine o'clock. I put my robe on, I come out, and I hear the clerk say, "All rise."

I'm on the bench. I see all these lawyers standing there, staring at me--what do I do now? [laughter] I [almost] ran back to the chambers. I said, "Oh, sit down, please be seated." So, my first experience on a motion Friday, I almost ran out the door. I'd been there a million times, but it was a little different from up on the bench. [laughter]

SI: Sure. How would you, in a nutshell, sum up your philosophy as a judge?

Justice Fernandez-Vina: I used to have a little sign in front of me on the bench--not in the Supreme Court, because you don't [do that]--but, in the trial court, "Be patient, be kind, be fair." Attorneys and people are under stress. So, you have to be patient, which I'm not real good at, but that sign was there.

Be kind--no matter what, whether you rule against them or for them, be polite, treat them with kindness, and then, be fair. Leave any prejudice, bias, you have outside the door and try to do that case and that case alone. So, I used to have that little sign, "Be patient, be kind, be fair." I think that's the key to being a good judge.

By the way, my mom (wouldn't say anything?), because my dad, one time, said something to her about, "Honesty above all else." She said, "Faustino, only really, really dumb people live by slogans." [laughter] So, my mom could be pretty tough. I mean, she was laughing when she said it. So, even though I just talked about a little slogan, I remember that my mom was not big on that stuff. [laughter]

SI: You were in that role until Chief Justice Zazzali's term.

Justice Fernandez-Vina: Well, I remained Presiding Judge of Civil, and then, Judge Orlando retired. So, there was an opening for assignment judge and Chief Justice Rabner made me the assignment judge. Then, I was there I guess until Governor Christie called me one time and said, "You know, we hear good things about you. I said, "Well, okay."

SI: Tell me what the experience is like as an assignment judge.

Justice Fernandez-Vina: It's like herding cats. You have judges who want to work hard, but they want to do it their way. We have to deal with the AOC [Administrative Office of the Courts], with the statistics and keeping things going. Lawyers, sometimes, they ask for adjournments three, four times. Then, the day they're finally ready, you don't have a judge available. Now, they're mad that you didn't reach their case.

So, just stay calm--like I said, "Be patient, be kind, be fair"--but I enjoyed it. I guess I did a good job. Nobody complained and I'm still invited to the vicinage parties. So, I guess I did okay.

SI: That was 2013 or so?

Justice Fernandez-Vina: It wasn't after '13...

SI: I think 2012 was the disbanding of the police force in Camden.

Justice Fernandez-Vina: Okay. So, I was the assignment judge then. So, I guess I became assignment judge before that. I'd already been assignment judge.

SI: Okay.

Justice Fernandez-Vina: I might've come to the assignment judge [position] in 2012, I think. I think, I'm not sure, but it was definitely because I was the assignment judge--that's why I ruled in that police case. Then, I stayed there for a while, and then, I went to the "Supremes"--not the singing group. I can't sing. [laughter]

SI: Does anything else stand out about the Camden case?

Justice Fernandez-Vina: No. They had their arguments and I listened to them. I reviewed the law and determined that it could be done if there's clear need--Camden's a Class A city under the Faulkner [Act]. We're a home rule state. Under the Faulkner Act, the Class A cities could do that, have a county force. I thought it was the right way to go, because of the manpower shortages and all that stuff.

[Editor's Note: The Faulkner Act of 1950 (amended significantly in 1981) provides New Jersey municipalities with a variety of government forms they may adopt using prescribed methods.]

So, I just ruled, and then, I think Appellate Division affirmed me, I think. Supreme Court, I don't know if it went to the Supremes or not, but, if it did, they didn't reverse it. So, I guess they affirmed me--maybe the fact that I called and threatened them all, [laughter] something like that.

No, it must've gone to the Supreme Court, but I don't remember. Once it was off my bench--the Appellate Division's going to do what they're going to do--I didn't worry about it. I did what I thought I should do and, if they didn't agree, fine. So, if they agree with me, they were brilliant. If they disagreed with me, they got it wrong, [laughter] but they rule. So, if it came back, you tried it again. I don't pay too much attention to that stuff.

SI: You were the assignment judge until 2014.

Justice Fernandez-Vina: Yes, when I went to the Supreme Court, yes.

SI: Any other experiences from during that period?

Justice Fernandez-Vina: No, no. I guess it's the same for every assignment judge, because we would have something called "judicial coffee;" the judges meet and discuss things. I'm good friends with Pete Bariso, [who] was in Hudson, and stuff like that, Tom Brogan [of Passaic County] and Bob Polifroni.

Everybody's got issues unique to their vicinage, because every vicinage is a little different, but some things we have in common, with the trial judges and the staff and all. You just do what you got to do.

Basically, when I came in, I just said to them [the assignment judge's staff], I said, "Look, I just want to say I see you're doing great work. Judge Orlando had a good thing going on and I have no interest in changing anything to say I did it. So, we're going to stay the same."

"The only thing I've got to tell you is, we don't cover anything up. Even if it's to protect me, we don't cover anything up. If I find you covered something up, you're gone, even if it was to protect me. So, just, we apologize. We want to make sure it doesn't happen again, but let's not try to cover anything up when we make a mistake."

Other than that, I didn't give them a lot of rules and stuff like that. I mean, they're smart, hardworking people. You don't need to be [hovering]. They're not kindergartners, where you have to have a million rules.

PART 3 OF 3

"Everybody Up There Has the Same Goal--Get It Right:" Years of Service on the NJ Supreme Court

Justice Fernandez-Vina takes the interviewer through the process of becoming a member of the New Jersey Supreme Court, including going through his NJ Senate confirmation and the swearing-in ceremony. He describes the role of clerks in his chambers and how he prepared for writing opinions. He recalls some cases, such as Shields v. Ramslee Motors (2020), Davis v. Brickman Landscaping (2014), Hersh v. County of Morris (2014), Lapsley v. Tp. of Sparta (2022) and JH v. R & M Tagliareni (2019). He also shares his memories of the pandemic and its impact on the court. Following his retirement from the bench, he joined the Parker McCay firm.

SI: When was the first time you heard about the opportunity for the Supreme Court? Was it before the phone call from the Governor's Office?

Justice Fernandez-Vina: No, it was at the phone call, yes. I had never lobbied--I know people lobby for that stuff--but it was just out of the blue. They called--God, what was her name? Her last name was Brown. She was the appointments counselor. Oh, God, I can't--she would kill me if she's ever [reading this]. I can't remember her name, her first name, all of a sudden. I'm really bad with names.

SI: Do you want to take a break?

Justice Fernandez-Vina: No, no, I'm fine. I'm not going to remember--Michelle? Was it Michelle Brown? Maybe it was, I think, but, anyway, so, she called. Then, they called, and then, I went up there. I think it was (Paula Dow?) and Jeff (Chiesa?). We talked, we talked, and then, the Governor said, "I want you." So, I said, "Okay, I'm in."

[Editor's Note: Michele Brown served as Appointments Counsel to Governor Chris Christie from 2010 to 2012, then, as CEO of the New Jersey Economic Development Authority from 2012 to 2015. Paula T. Dow served as the Attorney General of New Jersey from 2010 to 2012 and was succeeded by Jeffrey S. Chiesa from 2012 to 2013.]

SI: How did you feel about this?

Justice Fernandez-Vina: I knew it's a big job, but I wanted to [do it]. If you work in anything, you want to be at the top shelf. You don't want to be the guy sitting on the bench. You want to be the starting quarterback. So, I thought it'd be great.

It was a really unique experience. I mean, we're from different parties and all that stuff, but everybody's trying to do the right thing and get it done right. There's a lot of collegiality and we all get along pretty well. People think that there are issues and stuff. There are not. Everybody just works hard.

I think a lot of that has to do with, well, other than me, everybody has a good temperament, [laughter] but everybody's very congenial. The Chief Justice is just a fantastic guy. He's a great guy and he makes it pleasant to be there. I mean, he gets things done, but it's in a very polite, nice way, and just I can't say enough good things about him. He's a great guy.

SI: Tell me how you were prepped, so-to-speak, as a nominee...

Justice Fernandez-Vina: For the questions?

SI: Yes, or the whole process of, first, your press conference, then, getting ready for the Judicial Committee.

Justice Fernandez-Vina: Well, the press conference, they told me, "Just prepare a short speech about, 'It's an honor and a privilege,' etc., and everything." Then, for prepping, you get some intel about the different [committee members]--because at least my experience with the Superior Court was, it was just a whole panel of the Judicial Committee of the Senate--but, for the Supreme Court, I actually went to everybody's office individually. Basically, they ask you questions and you answer what you can. Some, you can't, because you can't discuss future cases that may come before you.

Then, when you go before the Senate at the State House, it's the same thing. They ask you questions, you answer what you can. Some, you can't answer. You just hope--you have no influence on that. I was unanimous, which surprised me, but you just answered the questions. Some, you just say, "I'm sorry, I can't answer your question on that. The case is going to come before us and I can't tell you how I would rule."

Sometimes, you get something like, "I don't want to know how you'd rule, I want to know what your opinion is on it all." "My opinion doesn't play any part in the decision-making process." I said, "You determine what the facts are, you apply the law to the facts. You vote that way, you write your opinion that way," but I'm sure you've seen them on TV.

SI: Yes. Just to say it plainly, I often hear an answer similar to the one you just gave from other judges, "You cannot comment on other cases." However, it seems like the Senate always wants to ask about specific cases or federal cases.

Justice Fernandez-Vina: Yes, well, because they want to know if you're going to be somebody who supports it, but their position is to have a position and push it. As a judge, your position is [to] determine what the facts are and, at that point, you'd know. So, it doesn't matter if you're a liberal or a conservative, if you're a Supreme Court Justice, you're supposed to decide the case based [on fact].

I mean, your opinion comes into play. I mean, nobody leaves that outside the door, but you try to just make sure you decide what the facts are. Certainly, on a hypothetical, you can't say, "Well, I'm going to rule this way," because who knows how many variables there are when you get a real case like that.

Judges are worrying about somebody saying, "Well, he gave the wrong answer. I'm not going to vote for him or her." On the other hand, they want to know. They're trying to get an idea how you would vote, but it's almost impossible to make the two match up, because one's a hypothetical and the other is [real]. How are you going to decide a hypothetical? You don't know what all [is involved]. There could be different factors that you're not telling me.

When your opinion comes, when a case comes with that [association] and it's got different factors, [if] you rule differently, they say, "Oh, he lied." Well, no, the facts are a little different. So, basically, you just say, "I can't give you an opinion on something [hypothetical]."

Your opinion's not important. I may think it's the worst thing in the world, but, if the facts support it, you've got to go for it. So, that's why you get that from many judges (and cabinet members)..

SI: What about your swearing-in ceremony? What do you recall about that day?

Justice Fernandez-Vina: Oh, it was great. My mom had passed. My dad was still here. He was in a wheelchair, but he was there. We were in the back. Then, Judge Orlando, who I've known since high school, is a speaker, and the Chief and Governor Christie.

Spike [Judge Orlando] was great. I mean, he's just been a great friend and he was the assignment judge before me. He knew my life history, so, he talked about it. It's on YouTube. I didn't know it was. Somebody told me about it. So, I watched it and it was really cool, yes.

It was nice to have my dad there. We were in the back. My neighbor's helping, because he was wheelchair-bound. So, he had to go to the bathroom. So, he took him to the bathroom, but he took his suit jacket off to help him out. Then, he had it off when we came back.

So, we're going out. So, I'm trying to get my robe on and I'm trying to help him with the suit jacket. He was very prim and proper. If he went out there without a suit jacket on, he would've had a heart attack. Next thing you know, so, I think Governor Chris Christie grabbed him under the armpits, and then, Steve Sweeney and Chief Justice Rabner were helping him with his jacket, all this stuff.

[Editor's Note: NJ State Senator Stephen M. Sweeney (Third District) served in the New Jersey Senate from 2002 to 2022 and served as Senate President from 2010 to 2022.]

So, then, the next day, in the morning, I'm home, he says, "Who were those three nice men, were so nice to help me with my suit?" I said, "Well, one was the Governor, one

was the Chief Justice, one was the President of the Senate." He said, "Oh, that's pretty important."

SI: [laughter] Wow, bipartisan effort.

Justice Fernandez-Vina: Yes, but it was pretty funny, said, "Who were those nice men?" [laughter] He had no idea who they were.

SI: Did you start hearing cases or participating before the swearing-in ceremony, or was it after?

Justice Fernandez-Vina: That was the ceremonial one. The day [I began], we had one just in chambers, because we were short. So, just the Chief swore me in, I put my robe on, went out there and heard cases. So, yes, I started right away. I didn't wait for the ceremony, because we were shorthanded.

I think I started--what?--in September maybe. I heard cases September, October, November, December, because I didn't get sworn in until January--ceremonially, but I was already sworn in.

SI: You had all this experience on the bench. How is it different now that you are on the Supreme Court?

Justice Fernandez-Vina: Well, at the trial court level, you're trying to get it right. Based on the facts and the law, you decide that case. At the Supreme Court, you're deciding the future. If we get a statute wrong, it'll take a long time to fix it. If we get the Constitution wrong, we may never be able to fix it.

So, you're not only deciding the case before you--you want to get that right, obviously, you want to make sure you got that right--but you're also thinking of ramifications when future cases come under your ruling, future events and stuff like that.

I'm trying to think of something like that that I wrote. I don't remember the name of it. I remember I wrote an opinion in a snow case. I think the Appellate Court had said that you have a duty to clean snow while the storm's still going. We were going for that.

[Editor's Note: Justice Fernandez-Vina may be referring to the *Shields v. Ramslee Motors*, 240 N.J. 479, 223 A.3d 172 (2020) case.]

I convinced them, said, "Well, what happens if you're, working at a mom-and-pop store and it's just you and there's a four-day storm. You can't go home and eat or sleep because, every forty-five minutes, you've got to get out there and shovel?" I said, "It's unreal." Even if you're a big store, like a Pathmark or a Shoprite, and you have a service, you may not be the first on the list. They may have six or seven stores before they get to you. So, what do you do then?

I said, "It sounds great, but it's not really realistic." So, I convinced them that [it was so]. Then, somebody said, "Well, you could throw salt on it." I said, "Well, obviously, you haven't had a shovel in your hands, because throwing salt on snow doesn't do anything--on ice, yes, on snow, no." So, we wrote the opinion. I remember that.

So, I tried to bring in a little bit of that common sense--not that they don't have it. I mean everybody's really smart, probably smarter, much smarter, than me.

SI: It is interesting that, at this level, you have people like yourself, who come from the bench, and then, others who come from government and other avenues. How do you merge all those perspectives?

Justice Fernandez-Vina: Well, I think everyone has the same goal--get it right and protect the State, protect our citizens, protect the Constitution. So, I think when everybody has the same goal, it doesn't matter where you came from, you're going to come to the right decision.

I don't think there's anyone up there, at least that I know of (and I can't speak for the past), but they all seem [dedicated], because we've done [things] here and there. They all seem like very legitimate, reasonable people, but I don't think there's anybody up there [that] wants to worry about their legacy. I mean, everybody has a legacy. Our opinions speak for themselves, but you're trying to get it right. Everybody up there has the same goal--get it right.

SI: What about your first opinion or your first few opinions? Does anything stand out about putting those together?

Justice Fernandez-Vina: Well, it was far more difficult than I thought, far more difficult than I had thought--and then, you have six critics. Their suggestions are good, but, sometimes, you don't agree. So, you go back and forth on it all.

I think my first case was hard--not because the law, I thought, was difficult. I think we reversed the Appellate Division, upheld the trial court. It was a fire; two innocent people died. There was some defect with some equipment below or something, but the expert wasn't total--complete--in that opinion. That's why the trial court threw it out.

The Appellate Division affirmed, but we determined, in that opinion and under the new rules, experts have to provide the whys and wherefores of their opinions, and he hadn't. It was at our level, so, we just reversed it. It went back to throwing the case out in the trial court decision, which, I mean, one had died from the fire.

So, like I said, it was a tough decision, but, like they say, "Bad law makes bad cases," or whatever it is. So, we did what I thought was the right thing, but I was asked to write. So, my first opinion was, "People who die were not going to get any recovery," but you do your job.

SI: One of your early cases, it may be the snow case, *Brickman*...

Justice Fernandez-Vina: That was the fire case.

SI: That was the fire case.

Justice Fernandez-Vina: Yes, that was the fire case.

SI: All right.

[Editor's Note: The case is *Davis v. Brickman Landscaping*, 219 N.J. 395, 98 A. 3d 1173 (2014)]

Justice Fernandez-Vina: And I only looked that up because I'm bad with names. I don't remember any case names ever, but I looked it up because I knew it was my first case. So, I thought you might ask me about it.

SI: Do you think you developed a method or a process for writing opinions?

Justice Fernandez-Vina: Yes. I would write them in my chicken scratch, give them to the law clerks to figure out what I wrote. Then, they'd bring it back to me, and then, we'd make some changes. Then, after that, when you're done--and my secretary would type them--you send them to the Justices.

They review them. They send you back suggestions, and then, you either accept them or you don't. You discuss those, too. Then, the opinion goes to the editor of opinions. She's very good. She'll make grammatical corrections. Then, finally, it gets ready to go out.

So, it's a long process to get an opinion out. It's amazing we get as many out as we do every year, because it takes quite a while to write them. You have smart law clerks and you get a lot of help from them, filling in the blanks and stuff like that, but, ultimately, it's your opinion. It's your decision and your reasoning has to be in it, not somebody else's.

SI: What did you look for in law clerks?

Justice Fernandez-Vina: Contrary to my colleagues who interview a lot of people and ask them a lot of questions (from what I hear), I just brought them in. You have three and they're in a room. It's a big room, but they're in there, so, you want them to get along.

I look at their credentials. I didn't interview many; I interviewed three or four. I know some of my colleagues interview ten or twelve. So, I interviewed three or four, I usually hired three, maybe. I look for good résumés and stuff like that.

Then, I would ask the law clerks if they knew of them personally, because they're from the law schools. Then, my secretary had a lot of input. She's really good in reading people. So, when they came in, I didn't ask--like some of my colleagues, even some Superior Court judges, they'll ask them about law and all that stuff.

I assume they're very nervous in front of you. They're in law school and they're sitting with a Supreme Court Justice. So, I would just say, "Why do you want to be [my clerk]? Why do you want this job? What do you see yourself doing when you leave here? It's only a one-year job. What about this?" just try to get more about their personality. That's how I hired them.

I think I did very well. I had great, great law clerks. No, I didn't ask them, "What's your position on the rule against perpetuity?" or any of that stuff. I just [asked], "Why do you want the job? What do you see yourself doing when you leave here? What do you expect to get from being here? What are your personal goals in life?" and stuff like that. I went by that.

I figured if they're in front of me, they're qualified, because we wouldn't have picked them out of the résumés if they weren't. So, I didn't worry about their legal skills or anything like that.

SI: From what you have described, we can see it is a lot of work on the Supreme Court, with a fast turnaround.

Justice Fernandez-Vina: Oh, yes, yes. Well, your opinions take a long time to turn around, but you're working on them. It's not like you're just putting it on the back burner.

SI: It was still the two-week cycle.

Justice Fernandez-Vina: Yes, it's one week we hear cert petitions, we decide cert petitions. We tried to decide sixty every week, which is a lot. Then, that's the case pool we take from. Then, the next week are oral arguments, and then, the week of the cert petitions, you also vote on cases. You go around the table, and then, you say, "I'm to affirm," or to reverse. Then, we have a vote, whatever that is, and the Chief records it.

Then, a few days later, he'll call you or email you and say, "Would you mind writing the opinion?" So, you say, "Yes, of course." I don't think I ever said, "No, Chief, I'm not writing it." [laughter]

So, then, you write the opinion. Then, it goes back to the other Justices to review and make suggestions and bring them back. Then, at the end, you have a finished product. Then, you give it to a law person, check for punctuation and citation and stuff like that, make sure you didn't miss anything. Then, it goes out.

You get a lot of help from them, too. I mean, they're smart kids and you run things by them.

Although, sometimes, their youth, even though they're very intelligent, very well educated, sometimes, some of the common sense things, they don't see yet. They need to be a little bit older or wiser in that sense, but all my law clerks were great, every one of them. I have no complaints.

SI: You mentioned earlier the collegiality between the Justices.

Justice Fernandez-Vina: Oh, yes, yes.

SI: It sounds like that was also in the offices.

Justice Fernandez-Vina: Oh, yes, yes. I don't know about any other office, but I know [my habit was]--and, of course, I love to eat--so, I'd take them to lunch every day. They'd say to me, "Justice, as soon as you finished eating breakfast, you start planning what you're having for lunch?" I said, "Yes." I said, "While I'm eating lunch, I'm thinking, 'What am I going to have for dinner?'" [laughter]

So, we'd go out to restaurants just to give them a little break. So, I took them out just about every day to lunch. I don't know if my colleagues do that or not. Some of them work very hard--I don't think they eat lunch themselves--but that's my main goal every day, eat lunch somewhere. [laughter]

SI: What about some of the other cases that we discussed--*Hersh*?

Justice Fernandez-Vina: Oh, *Hersh v. County of Morris*, [217 N.J. 236, 86 A.3d 140 (2014)]. That was interesting. I didn't know anything about workers' compensation. I'd never been near it, but that was one of my [early ones]; I think it might've been my second assignment.

The rule in workers' compensation was that you were covered by your workers' comp if you were coming and going from work, coming to work, going from work. "Coming and going," the rule was called. Everybody was recovering, because, if you stopped at McDonald's, you were "on your way to work" or "on your way from work" or whatever. So, the Senate, to narrow it, brought it to employer's premises.

Then, there was a case called *Livingstone v. Abraham & Straus*, a workers' compensation judge, and then, the Appellate Division upheld. Abraham & Straus paid for parking in the parking lot. It was a store in North Jersey. They made the employees park in the back, to leave the front open for customers, makes sense. A woman got hit walking across the parking lot--or stepped in a hole, I forget which of the two it was.

So, the compensation judge determined that, because the employer derived a benefit from that, paying for employee parking, was part of the premises. It kept expanding. So, we took *Hersh v. County of Morris*, where they also paid for parking, but to narrow it. I wrote the opinion, but we determined that the fact that it was employee parking and the employer paid for it didn't make it part of the employer's premises.

There was a lot of discussion about that, because it's a perk. If you give employees perks, they work harder, they're happier, they're more productive. So, there's that undefined benefit, at least some discernible benefit, from paying for parking--but we determined that it wasn't enough. So, we ruled that it was not covered. Then, the interesting about it was--that was one of my first opinions--one of my last opinions was *Lapsley v.*, I forget...

SI: *Sparta* [*Lapsley v. Tp. of Sparta*, 249 N.J. 427, 266 A.3d 413 (2022)]?

Justice Fernandez-Vina: Sparta, yes, Sparta, right. In that one, the library, the public library, was a sidewalk away from the public parking lot. The librarian came out, it's the middle of the night and got run over by the snowblower, by a snowblower, a county snowblower, too.

So, what we determined in that situation was, a county parking lot, county act and the snowblower that ran her over. We found that that was part of it, that was covered, even though it was after work and it wasn't on the employer's premises, but it was close enough.

So, it kind of like bracketed my career, I guess--one, no, one, yes. Other than that, there's nothing really momentous about it. That's what we tried to do sometimes; we try to, like, bring the law back that gets expanded, because of your writing of your opinion or whatever.

Yes, that's about it, wrote a few criminal opinions. I never did criminal work, but you learn it and you do it, because you can't say, "No, Chief, I'm not writing that opinion because I don't know anything about criminal law." You have to become familiar with it.

SI: The death penalty was abolished.

Justice Fernandez-Vina: That was gone by the time I got there, yes.

SI: Looking through your opinions, there were a good number of Fifth Amendment issues.

Justice Fernandez-Vina: Right, yes, we get those. You get those. Also, I remember, I'm going to say *State v. Singh*, but I'm probably wrong (I happened to look at it), where a police officer [was] looking at a video in a court and he called the defendant "the defendant" twice. Then, he said that the shoes that the defendant was wearing when he arrested him were similar to the ones in the video. So, I think the trial court allowed it, the Appellate Division reversed, and then, we reversed.

I set out that the rules were lay opinion testimony. First of all, "defendant claimed," it was a plain error and just wanted to bar, it didn't really cause any harm. Then, with the sneakers, if you're witnessing, you observe them, you can say, "Yes, they look similar,"

if you make a proper observation. We kind of clarified that a little bit, but, other than that, I don't remember much.

SI: Another case--we were talking about product liability and other issues--it is *JH v. R & M Tagliareni*, [LLC, 239 N.J. 198, 216 A. 3d 169 (2019)] from 2019. That had to do with, do landlords have a responsibility to put insulation on radiators in people's homes?

Justice Fernandez-Vina: Oh, yes, yes. A father came home and went to bed. He had, I forget the age, a young baby--he put him in the bed next to him, with no guardrails or anything like that. I guess he fell asleep or was a deep sleeper--baby rolled off the bed and his face landed against the radiator. So, he's severely burned, and they sued the landlord.

My position was, radiators are hot; that's why they [work]. If it's cold, it's not a radiator anymore. It's not heating your house. So, they said that the landlord should've put guards around it. I said, "Well, if you put guards around it, they're going to get hot, too." We went back and forth.

I think the Chief was in the center, but it was a majority opinion saying the landlord had no responsibility for it. Plus, it might've been in Newark, but the building inspectors come and inspect and they approved it. So, he had the approval of (the imprimatur of) the building inspector. So, the majority opinion [was] that the landlord's not responsible.

I think the Chief dissented--I'm sure the Chief dissented, which doesn't make him a bad guy. He disagrees with me once in a while. [laughter] No, Chief's a great guy, really. He's a great guy.

SI: Are there other responsibilities that you got into on the Supreme Court?

Justice Fernandez-Vina: Yes, so many on the committees, we oversee them. Once I had all the eye problems and all, I couldn't drive at night, the Chief took me off a lot of that stuff, because he knew I just [could not do it]. I don't know if it's from football injuries or what, but my left eye, I had about seven or eight surgeries--it was gone. In my right eye, I had five or six. For a while there, I couldn't see at all. Then, it started coming back.

SI: Were you still on the court when that happened?

Justice Fernandez-Vina: Yes, yes. I missed a few months' worth, because I couldn't read the [material]. One of the Justices says, "We'll bring your law clerks and they can [talk with you]." I said, "At the pace we ask questions, by the time I ask one of them to look something up, so [that] I can answer the question," I said, "we'll be fourteen questions removed from that."

So, yes, I didn't do much then because [of it]. Certs, I could do, because somebody would read them to me and I'd know whether to grant or deny. It was easier, but [not] writing opinions, because you've got to be able to read them.

I could barely--actually, it was horrible. I ended up with I think about eight, nine surgeries before I finally got some eyesight back. This one never came back. You can't watch TV, you can't read, you can't cook anything. You can't find food in the refrigerator. You can't go for a walk, because you might not be able to find your way home if you get confused.

So, I used to sit on the couch and wait to go to bed every night, and then, get up and sit on the couch. It was not fun, but thank God--God and good doctors--I have a lot of my vision back in my right eye. It's not perfect, but I can drive. People say, "Well, you don't have any depth perception." I say, "Well, driving, you don't need depth perception," because depth perception is only up close.

One of the things I can't do is, I can't tie shoelaces. So, though I think it's the wrong thing, I bought those shoes that had the fake shoelaces. You just slide your foot in. That's what I wear now, [laughter] because I can't [tie laces]. One day, just to see, I timed it--it took me twenty-seven minutes to do one shoelace, no depth perception and no feeling in my hands from the surgeries.

SI: Was that before the pandemic?

Justice Fernandez-Vina: Yes, it was before the pandemic.

SI: How did the pandemic affect the work of the court?

Justice Fernandez-Vina: It slowed it down, but it slowed the trial courts down [as well]. We take stuff from them, so, it didn't hurt us as much, I think, because there was not that much for us to take. It really hurt the lower courts.

Some of the suggestions that people had made, they're just not workable for a trial attorney--having the jury and the audience separate. When you're trying a case, you're looking at the jury, because, if you see a look of something they don't like, you go somewhere else immediately. You can't be scanning [video]. It just made it very difficult.

I also think that--and that's just my personal point of view--when you're a judge, say you enter a restraining order, it doesn't come with a gun or a security officer. It just comes with that signed order. When you do it from your couch, I don't think it carries as much weight for the individual as it does when he's in the courtroom, sitting at a bench. He sees the two flags, the state seal. You're up high (the judge is up high) and the Sheriff is there and things like that.

I think they're more likely to follow that order and I think it carries more weight, but that's just me. It had to be done. I mean, you couldn't have people dying running the courthouse, but I think that hurt more than anything, the fact that it's too casual.

I think there should be a certain [decorum]. Well, I think that's probably why, usually, the largest building in every county is the courthouse, because, I think, you walk in, you see the columns, you're impressed. You're more likely to follow the judge's ruling than if he or she's sitting on their couch, but that's just me. I mean, I don't know that that's right or wrong, but that's just the thought I always have.

SI: That is interesting. You had some committee work, though. What committees did you serve on before your health problems removed you from them?

Justice Fernandez-Vina: Oh, God; I was on the Ethics Committee when I was a trial attorney. I was on the Ethics Committee for a long time. So, I think I was on that. I'm trying to think of some of the others. Oh, God, I forget.

SI: The Ethics Committee is for specific cases.

Justice Fernandez-Vina: Yes. I was on that as an attorney. Also, the trial bar, I think I was the head of that for a few years.

SI: Civil litigation?

Justice Fernandez-Vina: Civil litigation, yes. I don't know anything about criminal, other than they get more jurors than in [civil]. I had jury duty not too long ago.

SI: Huh?

Justice Fernandez-Vina: Yes, well, we're not exempt. So, I went, and it was in Camden, so, all the judges were saying "hi" to me. I was the only person in the jury room wearing a suit and tie, because I thought, eventually, they're going to find out. We went up late in the afternoon, about four o'clock. Usually, I make it home at 4:15--sixty jurors for a criminal trial.

They still had a little bit of a (panel inside?), so, we couldn't come in. I mean, there's no place to sit, so, everybody's milling around outside. They're mad because they know that they'd be going home in five minutes if it wasn't for this.

So, I was trying to help out. I said, "Folks," I said, "let me explain something to you." I said, "In a civil case," which we all went up for civil cases in the morning, "attorneys get six challenges each. So, it's only twelve [total]." I said, "In a criminal case, particularly murder cases, nineteen for the prosecutor, twenty for the defense attorney." So, I said, "That's thirty-nine. So, that's why we have so many more people," blah, blah, blah.

So, someone says, "How do you know that?" I said, "Ah, I just know things." [laughter] Then, I walked in and the Judge says, "We're going to excuse the Supreme Court Justice there." They're looking at me like, "Oh, you..."

I was just trying to help out, because they were getting aggravated. I don't blame them. I mean, they were going home in five minutes and they knew they weren't going home until, like, maybe five o'clock or so, because they were going to be up there. So, I just tried to help them out and somebody said, "How do you know this?" "I just know things." [laughter]

SI: You mentioned, outside of work, you coached at Collingwood High School.

Justice Fernandez-Vina: Yes, football, yes.

SI: How long was that for?

Justice Fernandez-Vina: Oh, God. It was almost, the whole time, probably [started] like one or two years after I graduated from law school, yes. One of my teammates had been cut by the Dolphins and he was coaching there. So, I stopped by to say "hello." Then, they drafted me into coaching, too. It was fun. I did it (I guess I did it) [until] I was probably two years into the Superior Court. Then, when my mom and dad became ill, I didn't have time for that anymore. It was a lot of fun and a place to relax.

SI: What do you think you tried to impart to your players?

Justice Fernandez-Vina: To be tough--to be tough, but play within the rules. Actually, it's funny, because I used to take them out to all-you-can-eat, like one night a week, just the fat boys, the offense linemen--the receivers, they don't eat much. [laughter]

I was in church about a few months ago and one of them came up [to me]. I didn't even recognize this guy, "Your Honor, Justice," he said. I said, "Oh, yes, yes." He says, "I'd love to introduce you to my wife and children." I said, "Oh, yes." So, they came over. I shook their hands, "Very nice to meet you."

Then, he said to me, he said, "You don't know this, but a lot of us had difficulty with food. Some of us, it was the only good meal we got every week, was when you took us out to all-you-can-eat." I said, "Well, I didn't know that. I was just taking you out for the fun of it, but, if you had told me that, I could've done it maybe a couple more nights."

He said, "No, no," he says, "we really appreciate it. You really helped a lot of us that didn't have anything," because Collingswood, some people were affluent, some were not. I said, "Oh, I didn't know that." Then, I'm glad I did it, but I just did it to get them out, good camaraderie and stuff like that. I didn't realize that it was helping anybody. So, it was a good deed, but not a known good deed. It was an unknown good deed. So, it doesn't count. [laughter]

SI: Are there other experiences from your time on the Superior Court that stand out?

Justice Fernandez-Vina: No, it was a lot of fun. I mean, I'd tried cases as an attorney, so, it was fun to try cases. The one thing Spike Orlando told me, the assignment judge [before me], "When you got it, everybody ran out and started buying rules of evidence books, because they knew you'd be talking by the numbers. You'd be saying, '806, sustained,' or, '404(b).'" So, he said there was a rush in the Rutgers Law School library, bookstore for rules of evidence books. [laughter]

SI: Looking back on the long time you were both on the bench and a trial attorney, how did you in general see the discipline change, in terms of its makeup, that sort of thing?

Justice Fernandez-Vina: I didn't see a change at all. I think most attorneys are pretty old-fashioned. I don't think that there's new stuff; maybe now. At the Supreme Court, we don't get [young people], we get old people. I mean, we get old lawyers; nobody brand-new goes there. So, I didn't see much of a change. I mean, I know there's been changes, but I didn't see any of this new stuff.

I don't know how it is now with judges having been home and, now, they're back. They're probably not happy, because it's a lot more convenient working from home, but I didn't see many changes myself. I thought everybody was about the same. The old guys were old, but they were still the same, and the young guys were acting like the old guys, at least in front of us.

SI: Did you see it become more gender balanced or diverse?

Justice Fernandez-Vina: Yes, yes. I never paid much attention to that stuff, but, yes. I think there were always women attorneys, I can remember, maybe there were more [men], but, at the law firm, there were a handful of women and there were more men. I didn't think it was, like, one woman or two or something. There were more than that.

Same way with the Judiciary; I mean, I think half the law clerks were probably female and half were male, or, sometimes, more females, sometimes, more male, but I've had both. I couldn't tell you how many; I mean, I think I've had thirty-eight of them. I would say maybe fifteen or sixteen were female, maybe twenty, twenty-one were male or something like that.

With the Supreme Court, you get three--some years, I had three females. Some years, I had three males. I just picked who I thought was going to be the best fit. So, I never kind of looked at that too much.

SI: We talked a little bit about technology impacting the discipline, [laughter] but any other thoughts on that?

Justice Fernandez-Vina: Other than I know nothing about technology? [laughter] One day, the Chief Justice called me. He wanted me to watch something on TV and he said,

"It's on Netflix." I said, "What's that?" He goes, "Don't you have Netflix?" I said, "I don't know." He says, "Well, look, see if you see a box and a cord behind your TV somewhere." So, I looked around, said, "Yes, yes, there is." So, he says, "That's Netflix."

I said, "I don't know how to turn it on." So, he said, "I'm going to put my daughter on the phone. She's going to walk you through it." So, she gets on the phone, says, "Show me the TV." So, I took the phone, I turned it around. She says "What are you doing?" [laughter] She says, "No, there's like a little camera thing--put that on." [laughter] So, I said, "Okay." So, yes, I'm not real good with technology at all.

SI: Does anything stand out now as being very different from when you first started in law, in terms of how it is practiced? Are there things you think should be brought back?

Justice Fernandez-Vina: I was never on the bench for a long time. I don't know. I mean, you go to seminars about litigation, but not much. Like I said, I wouldn't know if there were any changes because, if I had a trial right now, I'd have like the pieces of paper with notes on it. I wouldn't have [a tablet].

Matter of fact, when I was on the bench and computers had started, there was a guy, I guess he was looking up jurors on his--which I think we put a stop to that--but on his iPad on the bench. The only thing I'd ever seen on the bench was, some of the parties might've played that ping-pong game with the computer.

So, I'm thinking to myself, "This guy, I can't believe he's playing ping-pong when we're picking a jury." [laughter] I thought he was playing a video game; I had no idea that you could look up jurors. [laughter] So, I thought he was playing ping-pong. I was like, "I can't believe this. His client should fire him or something," but it turned out he was looking up jurors.

SI: Is there anything else you would like to discuss?

Justice Fernandez-Vina: No, no. This is great.

SI: All right.

Justice Fernandez-Vina: I hope I gave you some good information.

SI: No, absolutely. You are great with anecdotes. I wanted to see if there are any others that stand out.

Justice Fernandez-Vina: No, I can't think [any]--not for the record, [laughter] not for the record.

SI: We talked a little bit about legal malpractice before the recording began. Is there anything else you want to say on that matter?

Justice Fernandez-Vina: No, no. It's difficult. Legal malpractice is difficult. Sometimes, your toughest adversary is your own client, because lawyers, we all know what we're doing. It's hard to be sued. It challenges your education, your work and everything.

Some would say, "Just settle and get out of here," but some would be adamant, angry. The last thing you need is an angry witness with a jury. So, you're trying to say, "Look, just stay calm. Answer the questions. Don't ask for a read back, and then, argue with the attorney about the semantics of the word. Just answer the question," but, overall, it was okay. I mean, we did very well with it.

SI: Your term ended when you turned seventy,

Justice Fernandez-Vina: Yes, February of--what's this, 2023 we're in? So, 2022; I was born '52.

SI: Yes. You have been off for almost two years.

Justice Fernandez-Vina: Close to that, coming up on two years next January.

SI: What do you think about the "retire at seventy" rule?

Justice Fernandez-Vina: I'm going to get in trouble for this--and most judges will disagree--I think it's a good rule. I think it's a good rule. Thank God, I think I'm still sharp, but who knows when it hits me? When you're on the Supreme Court or Appellate Court, you have two [or more] other people, maybe they can [fill the gaps]. Nobody's ever going to admit that their faculties are failing them, because it's just pride--and, plus, you don't see it.

Like I said, I remember my mom, since she was brilliant and she started losing it, she was so [frustrated]. When you're a single trial judge, [if] you don't realize it--nobody's watching you other than your clerks, who are not going to say anything--I think you can do a lot of harm without realizing it. So, I know I'm going to get in trouble for this, but I don't mind it.

Some people say, "Well, seventy now is not the same as seventy back in 1947," but it's the Constitution. If we start changing the Constitution for convenience, then, where are we when there's something in there that people don't like? It's the Constitution, but we start changing that too?

I don't have a problem with that. I wasn't ready to leave and I enjoyed the company. I thank God they still call me, just about every day, just to [check in]--but I didn't disagree with it. It's time to go, time to go.

SI: Then, after your term ended, you came here.

Justice Fernandez-Vina: Yes, I came here [to the Parker McCay firm]. Yes, I just came here again. I wasn't planning on working anywhere. I don't need the money or anything like that, but, then, [Parker McCay CEO] Phil Norcross called me. He said, "What are you doing?" I said, "Nothing." He says, "You want to come work with us?"

I said, "Well, you know I'm not allowed to represent people, I'm not allowed to argue in court, I'm not allowed to write briefs. All I can do is give you legal advice and stuff like that." He said, "Well, we'd love to have you." So, I said, "Oh, I'll come in a couple days a week, just come in and go out to lunch." [laughter] A lot of the associates come in with questions and stuff like that. They asked me to sit on the hiring committee. We only, primarily, interview just the law clerks.

So, I guess they (a client) looked and said, "What's this?" Someone's like, "Your Honor, what is it exactly you do here?" I said, "Well, I come in, sit around and I go out to lunch and I go home." One of the partners said, "Actually, there's over a hundred years' experience here, sitting at this table," he said, "but nothing goes out of here without him reviewing it, at least looking at it," stuff like that, which is not true.

I look at some stuff, but not everything. I couldn't--we've got like ninety lawyers. I couldn't look at ninety [cases]. [laughter] So, I guess that's what I'm here for, like they may have ethics questions or they have procedural questions and stuff like that.

SI: All right, again, anything else you would like to add?

Justice Fernandez-Vina: No, no. Life is good and it's been good.

SI: Good.

Justice Fernandez-Vina: It started out a little iffy, but it's been good. It's all luck and God, because it's nothing I ever did. [laughter]

SI: Going back to your roots, do you think you would ever want to go back to Cuba?

Justice Fernandez-Vina: Not while there's Communism there. Plus, it's all destroyed. Somebody told me, like, our house--of course, they made our house into a hotel--and then, they didn't [maintain it]. In tropical climates when you have a (house?), it was marble floors, marble walls and stuff like that. They come off and they fall, and then, there's just stucco behind it.

I heard it's in shambles and stuff like that. I don't want to see anything like that. Plus, I left kind of young. I mean, I still remember everything, but I just left kind of young. So, no, I have no desire to go back as long as there's Communism there--and, even afterwards, why see ruins?

SI: Thank you very much.

Justice Fernandez-Vina: Oh, no, thank you. This was really interesting. It was fun.

-----END OF INTERVIEW-----

****Delete These Notes Later****

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Appendix I

During his tenure on the New Jersey Supreme Court from 2013 to 2022, Justice Faustino Fernandez-Vina served with the following Chief and Associate Justices:

Name	Years of Service
Chief Justice	
Stuart Rabner	2007-Present
Associate Justices	
Name	
Years of Service	
Barry T. Albin	2002-2022
Douglas M. Fasciale	2022-Present
Jaynee LaVecchia	2000-2021
Anne M. Patterson	2011-Present
Fabiana Pierre-Louis	2020-Present
Lee A. Solomon	2014-Present
Walter F. Timpone	2016-2020