LONGstorySHORT
with LESLIE WILCOX

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I would say that of all the cases I had, probably my highlight as a public defender was Henry Huihui IV, who was charged with robbery. The jury went home late at night. The next day, he saw me on the doorsteps. He said, You know, Marie, when the trial started, I thought I was guilty, but after your closing argument, I had reasonable doubt. And you know, if you've tried a case, that's gotta be classic. And I said to myself, I think he just admitted to me he might have done it. You know.

Retired judge Marie Milks had a passion for criminal law. After serving as a public defender for seven years, she was appointed by Chief Justice William Richardson to a judgeship on the State District Court. Four years later, Governor George Ariyoshi appointed her to the Circuit Court, where she spent much of the next twenty years judging criminal cases. Marie Milks, next, on Long Story Short.

> Long Story Short with Leslie Wilcox is Hawaii's first weekly television program produced and broadcast in high definition.

Aloha mai kakou. I'm Leslie Wilcox. Retired Judge Marie Nakanishi Milks was not only the first woman to be appointed to the State District Court in Honolulu, she was also the first Asian. She went on to become the first woman appointed after statehood to the Circuit Court, where she was a judge until she retired in 2004. Marie Milks grew up in Honolulu in the late 1940s and 50s in a family that didn't have a lot of money. Despite that, her parents made sure she got a good education, both inside as well as outside the classroom.

I had a very different kind of upbringing, partly because my father was really old when I was born. First of five children; forty-five years old. And so, he was very proud, you know, that he had a child. And I call him my first male friend. My father worked at night as a waiter; he was at the Waikiki Tavern, and then the Oahu Country Club. So, he would take me to the beach. I spent time with J. Aku Head Pupule's children. He took me to Chinatown, where he played chess with his buddies. And then, on almost a daily basis, we would go to the Art Academy, then the Honolulu Art Academy, and then to the zoo. Mostly to get me away from home, where my mother was taking care of the other children that came two years at a time. You know.

So, you had a private audience with your dad.

I did; yeah.

All those months or years.

Yeah.

Years.

Yeah. And it was, I guess, an introduction that men were okay. You know, older men were okay. And I think it helped me in later life to accept a lot of the mentoring that I got from some of the male judges. And you have to understand, when I started at the Public Defender's Office, some of my fellow public defenders would grouse about Judge this and Judge that, and I was them in a different light. A lot of them were like my uncles, my dad. And when they criticized me, I just took it as they were correcting my behavior.

Your mom didn't speak in English, and she wasn't schooling you in things.

One of my earliest memories of growing up with my mother was going to my friend's house one day. Judith Angel, in the third grade. And I just thought she was the cat's meow; she had blond hair. I wanted to be a Haole; I wanted blond hair. And we were in the living room, and I heard her radio, and I heard English voices. I said, Wow, your radio has English. My radio only has Japanese. She turned dial, and I went …

So, your dial never left the Japanese channel.

No.

Ah …

I thought that was volume control. Third grade, now. I mean, slow in the head. I was ten years old almost before I realized that radios actually had channels on them, you know.

What about your dad? 'Cause you had a lot of time with him.

My father was very, very strict about English. He was working as a waiter; he was with members at the country club. And we could not speak Pidgin in the home. I mean, really.

What happened if you did?

Oh, he would call us bakatare, and tell us, low class, and made us speak English.

Even with your buddies?

Yes. I mean, I was teased in elementary school. Haole lover, that kind of thing. Because I wouldn't speak Pidgin. I couldn't. I mean, that was a no-no in the family. So, one day, we had neighbors come to the house. They went up the steps, jumped, and broke the punee. And Rodney says, I never do 'em, I never do 'em. I said, It's not I never do 'em, it's I didn't do 'em.

You know. So, I was the one correcting people.

And Kaahumanu School; that was a lot of town kids, lots of Pidgin. A lot of them didn't do Standard English as well as Pidgin; it was Pidgin only.

Yeah, but we had teachers. You know, I had wonderful, wonderful teachers in elementary school. And I had one teacher in particular who was into poetry, in the third grade, Mrs. Macario. We had to recite poetry. But my recollection of Kaahumanu was very competitive for grades, and test scores. You know, we had to do well. And we were required, I mean, not only by the teachers, but by my parents; I had to produce. If I had a report card with all pluses and one check, I had to explain the check. What's … what's this?

What was your explanation?

I didn't blame it on the teacher. I said, I guess I have to study harder. You know, that was always—

And that was an acceptable answer, probably the only acceptable answer.

M-hm.

So, your father is this Renaissance man who loves art, music, chess.

Polo; he played polo, he surfed. We have pictures of him with a surfboard. You know, with his horse. So, I was exposed at a young age to a whole different kind of world, even though I wasn't financially or in a class that was, you know, high, middle, and felt very poor. I used to have to walk to the Natatorium from Nuuanu, from Country Club Road, because we couldn't afford the bus fare. I had to sew my own clothes, you know. I think, though, looking back, that probably is the best thing that happened to me, because it really allows you to have gratitude, you know, for everything you have. I had one good friend, who's now deceased, who believed in me. And you know, when we were seniors in high school, going on to be senior, she asked me, Why aren't you in the Honor Society?

M-hm.

I said, Nobody told me. And she went to the registrar and found the information. On my GPA, my card—back in the days, they had index cards—was paper-clipped behind somebody else's information.

So, you'd been making good grades, but you weren't recognized as someone who made good grades.

Yeah, I had about a 3.9, whatever it was, which is pretty good. So, I got into the Honor Society, and my friend Mamo who got me into the National Honor Society was going off to college. And she said, Why aren't you going to college? And at that time, you know, the tuition at the University of Hawaii was a hundred dollars a semester, and my parents were not going to pay; they couldn't afford it. And the only way I could have gone to college would have been a scholarship. She filled out an application for me, and got me a State of Hawaii scholarship for four years through then Councilmember Frank Loo.

Amazing. And what's Mamo's last name? I know you said she passed away.

Yeah; Mamo Kuwanoe Powers. And her daughter, you know, recently got married and has a son. So, I'm kinda like a grandmother.

That's a life-changing friend.

It is. I mean, I didn't even apply to college. You know, so this is somebody to whom I owe not only her, but her daughter and grandson, you know, gratitude.

Retired State Judge Marie Milks finished college in three and a half years, graduating Phi Beta Kappa. She was considering options for what to do next when, once again, a helpful classmate made a suggestion, which led Milks to law school.

There was a big scandal in Hawaii with Hiram Fong; there was a nepotism issue that he was hiring relatives. So, Patsy Mink decided she would hire somebody through the Department of Labor. There was a posting for a job with her, and a classmate of mine said, Hey, you should go to Washington. So, I applied, went to an interview. I was a great typist; I could type a hundred and twenty words a minute; really fast. But the day she was going to call me, I had changed my mind. I had decided I didn't want to go to Washington. So, I practiced. Mrs. Mink, I'm sorry, but I've decided—no. I'm sorry, but I decided to take another semester. So, I practiced and practiced. Phone rang. Marie, Patsy Mink's on the phone. And I say, Hello. And she says, Can you start on January 19th? And I said, Okay. What did I just do? This is the end of my life as I know it. But you know, another opportunity. And working for her, think the biggest revelation to me was how you could be a woman and be a professional. You know. And she was remarkable. I wished more people knew her the way I got to see her.

I know she was considered an absolute workhorse.

Oh!

And she expected so much from her staff.

Oh; we had to work Monday through Friday, and four hours on Saturday mornings. Which is what was almost a nonstarter for me to go to law school, because I had Saturday classes as a night student. And I had to talk to the dean, and he said, I think it's going to be too hard for you to do this. And I said, I wouldn't have applied.

You went to Georgetown.

Georgetown.

Working five and a half days a week?

Yeah; yeah.

And that was a tough school to get into.

Yeah.

Were you a first there, too? Were you a first?

I think that's what helped a lot. If I were to apply to Georgetown Law today, I … tell you, my chance of getting in would be zero, next to zero.

Why was it good then?

Because I was first Asian woman to ever apply.

Ever to apply?

Yes.

Ah …

First. And there were so few women. This is during the Vietnam era. The number of male students had been reduced somewhat, so they took on a few more women. And I just happened to be lucky, you know.

And you met all of their criteria, which were high.

Which helped; yeah. Well, you know, I had good grades in college, and I had the Phi Beta Kappa admission, so that helped me. But … it was happenstance. And that was when I first wrote to Sam King. He corresponded with me and advised me about law school. And I thought, Hey, I think I want to be a family

court judge. I applied to law school, by the way, to be a judge. That was going to be my career move. But it was family court that I was aspiring to at that time.

In law school, one of Marie Milks' professors was Sam Dash, who was also her boss at the Criminal Law Institute, where she worked on a criminal offender program. Dash became one of the Watergate scandal prosecutors, and John Sirica, who presided over the Watergate trial, was one of her trial practice instructors. Milks' exposure to criminal law shifted her interest away from family court.

After I started law school, criminal law became the thing for me. I just wanted to be a criminal …

Judge.

At that time, I had kinda just wanted to start as a criminal attorney. Prosecutor, defense attorney; didn't matter.

It didn't bother you which way you'd be arguing?

My own personal family background, and feeling like an underdog in many ways, I thought I was a pretty good champion for the oppressed. And I related; I could relate to a lot of the clients who came from, you know, family with very little. Although, I have to tell you, I used to get into fights with my clients who were very anti-Japanese. Back in the 70s, they felt that Japanese people had things easy. You know, DOE; oh, look at all the DOE people, and da-da, and you Japanese. You know, I used to get that from some of my Waianae clients. And then, the the Kawananakoa public school came out of me; I said, Eh …

Eh, you know what? If you want to see who had a tougher life, I'm gonna win. So … back off. You know? And not that I had a tougher life, but I didn't go to Punahou, you know. And that was the expectation of many of the clients, that I had the silver spoon, that I must have come from a rich family.

How did you develop their trust?

I worked hard. See, that's the other thing. I don't think that any one of them could ever feel that I sloughed off on things. Although, you know, I didn't have the world's best clients. I had some who were just horrible. I had three of my aunties go to court to watch me do a trial. It happened to be a sex assault case. And after the first day, they didn't want to go back. Oh, it's terrible, the kinds of people you represent. So, they didn't come back to watch me anymore.

How did you put it together in your mind? You know, in some cases, sure looks like your client's guilty. And you're associated with that person.

Yeah; yeah. You know, and it wasn't that they looked guilty; a lot of them were really, really guilty. But there's a little bit in some of us when you have a challenge or something difficult, it makes it almost easier. Because I always felt that even if my client was in fact convicted, it wouldn't be that they were innocent and were convicted. That, you know, the case was proved. The harder question for me as a public defender was a question people asked all the time. How can you do it, when you know they're guilty? How can you represent them, you know, when you know they did it? And my answer was, Well, the prosecutor went to law school; it's their job to convict. It wasn't my job to get them off. But it was rational; you know, it's something that you have to kind of understand yourself, what your role is. Your role is to defend; it wasn't to prove innocence, and it wasn't to prove that my client didn't do it. So, it was, I think an easier approach.

So, your job was to provide a spirited and and aggressive defense.

Yeah, yeah. Yeah. You understand your job, and that's when you can have pride in what you're doing.

After serving as a public defender for seven years, Marie Milks was appointed to a Hawaii State District Court judgeship in 1980.

You know, I remember when you went from the Public Defender's Office to Circuit Judge, hearing criminal cases. I was a journalist at the time. There was a lot of concern that you would be a softy. Oh, poor defendant.

Oh, yeah.

You would go on that side. But actually, that didn't happen. That was rarely the criticism leveled against you, if there was criticism.

M-hm. But see, I had career criminal defendants, so a lot of the sentences were mandatory. So, even if I wanted to be a softy, I couldn't. But, you know, in all honesty about my own self-assessment, I thought I was pretty fair about what the appropriate sentence was. And from the general public's standpoint, you don't get to read everything, you know, in the pre-sentence report. And as a judge, you can't repeat a lot of what you see. But if people saw the full extent of the reports we have, I think more people would be appreciative of what judges evaluate.

The other thing was, and I actually was called on a jury at one point; I realized, and I saw it for myself that the very people who say throw the book at him, send him away, didn't want to convict.

Exactly.

It's hard to decide that somebody might have to go to jail.

Yeah. That, plus you know, proof beyond a reasonable doubt is not what you feel. Because there were a lot of cases where there was that sense that the evidence wasn't sufficient, and you have to learn to distinguish levels of decision making. But I really honestly believe that ninety-nine percent of people, if they were given the same kind of information that any particular judge had, would likely agree with most of what judges do. You know, I had one client, for an example, who was a serial rapist. He raped a lot of women. And back in those days when I was a public defender, they called it rape; they didn't call it sex assault. He was the nicest client you would ever meet, admitted his wrongdoing every time. But he still … sexually assaulted people. But only people who handicapped or in wheelchairs. I mean, right? I mean, the reaction is, Well, what kind of horrible person would do this? Well, then I, as his attorney, got the pre-sentence report. Horrors of horrors; when he was three years old, his mother put firecrackers in his ear and lit them. You know? So, a lot of the defendants themselves have been very badly treated. Not an excuse, mind you. I'm not saying that gave him an excuse. But it can explain, you know, how people can go bad.

Yeah; I've heard the expression, Victims often victimize others.

Exactly. You know, one of the bigger points for me in my entire legal and judicial career was handling the Xerox, the Uyesugi case.

And the Byran Uyesugi seven-murder case was probably the biggest—well, one of the biggest legal cases in Hawaii over the decades. I remember that morning; I listening on the police radio as a reporter.

Oh, me too.

And you know, shots were ringing out at the Xerox building and there were seven deaths. And you were the judge presiding over the trial of the Xerox employee accused.

Right. Very interestingly; during the trial, he kept staring at me. You know. But he never scared me. I felt sorry for him. I did. And lot of my associates think there's something wrong with me when I said I felt sorry for the defendants, but I did. I felt sorry for the father.

He lived with his father, as I recall.

Yeah; and the father went out and apologized for him. And we see that so many times in crimes that happen; parents apologizing for their children. And you know, I feel for them, because it's tough to be aligned with somebody who does something, you know, heinous. Really; it was heinous. I feel sorry, actually, for a lot of the defendants and the families, what they go through. But I'm saying that this feeling sorry is more about the humaneness of what I've done, but the punishment was well-deserved. But that's not to say I didn't feel sorry for

the victims, either. You know, it's just that it's sad when people do things like that, you know.

You sent him away for a life term without parole.

Consecutive.

Consecutive.

Right. There were several gratifying things about that case, one of which is—and I always subscribed to this as a judge on the bench, and that was to have regard for the victims. You know, you don't take their side, but you always have to appreciate what victims go through. People don't ask to be robbed. People don't ask for their homes to be burglarized. But a couple years ago, one of the widows wrote to me and asked me for a job recommendation. You know, and I've had a good relationship with victims in other cases as well. But with respect to that case, one of the most gratifying things for me is, very few people know who the presiding judge was on that case. And to me, that's the ultimate compliment to a judge who presides on a case; and that is, they don't identify you with the case. It was about the facts, it was about the defendant, it was about the victims, and very little about the judge.

While Marie Milks was spending long hours as a public defender and then as a judge, she and her husband, Bill Milks, now a retired attorney, were also busy raising a family.

My daughter, her friends would say, Oh, you're so lucky, you know, your mom's a judge, you're gonna da-da-da-da. And … not so true. Our son, on the other hand, really liked the idea that I was a judge, because the male-female thing; right? Having a mom as a judge, from a male perspective, was easier for him to handle than our daughter. I regret that I didn't spend more time with them. But if I didn't have decent kids who I didn't have to go to parent-teacher meetings all the time, where would my career have gone? So, it was a family adventure, so to speak.

Did it work the other way with your husband?

Bill has never been intimidated by me at all. And one of his lines to me is, Marie, you know, you can't be a judge twenty-four hours a day. But he's been really, really supportive, everything I've striven for.

State Circuit Court Judge Marie Milks retired from the bench in 2004. Since then, she's been serving as a part-time mediator, helping people resolve cases through compromise rather than through the courts. At the time of our conversation in summer of 2015, she and her husband were traveling the world, a passion that, as you will see, Marie Milks has pursued since she was a little girl. Mahalo to retired Judge Marie Milks for sharing your story with us. And thank you

for joining us. For PBS Hawaii and Long Story Short, I'm Leslie Wilcox. Aloha, hui hou.

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When I was three, I said to my mother basically, I was gonna go to school. So, my mom says, Okay. Fixed me a little brown bag with some books and some Lifesavers, and … 'Bye. Off I go, and I cross the street … to take the bus. And I got on the bus.

The bus driver didn't say anything to this three-year-old girl?

He saw me get on the bus with somebody else. I knew where to get off, and this was at Keeaumoku and King Street, the old Sears building, which then became HPD. And my cousin and auntie, and everybody else lived on Young Street. So, I pull the signal, and I went to my auntie's house. Now, here's my auntie thinking that my parents just dumped me off at their house without telling her. So, I'm playing with my cousins. Meantime, she goes to the corner of Young Street and Keeaumoku, and they had this wagon. They had the sakanaya-san and the yasai-san, where they pull their sides up and sell fish or sell vegetables. So, my aunt is there when somebody comes up and says, Did you hear on the radio your niece was kidnapped, and the police are looking for her? And she says, She's in my house.

It got to be the family story; Marie is gonna travel the world when she grows up.

[END]