

My Beloved World¹

Reviewed by Major Shaun Lister*

“The quality of mercy: ‘It blesseth him that gives and him that takes.’”²

I. Introduction

Justice Sotomayor’s autobiography, *My Beloved World*, should be required reading by all new trial counsel and military justice supervisors. Besides being plainly written and easy to read, it is a narrative full of valuable lessons relating to the practice of law. Justice Sotomayor writes openly about her insecurities and fears that drove her, at an early age, to become self-reliant, independent, and hypercompetitive. Sotomayor weaves an uplifting story of her life and describes overcoming the adversity of childhood diabetes; growing up in Bronx housing projects surrounded by junkies, prostitutes, and gangs; and dealing with the prejudice that came with being admitted to the Ivy League during the age of affirmative action. Her experiences as a young prosecutor at the New York District Attorney’s Office and later as a litigation attorney in a private law firm provide a bounty of lessons on prosecutorial discretion, the quality of mercy, and the meaning of justice that will resonate profoundly with military justice practitioners. If it does not, the judge advocate reader is in the wrong profession.

II. Background

Sotomayor currently serves as an Associate Justice on the U.S. Supreme Court. She attended Princeton University as an undergraduate, where she graduated Phi Beta Kappa³ and won the Pyne Prize, the highest award a graduating senior at Princeton can receive. Sotomayor graduated from Yale Law School in 1979⁴ where she served on the *Yale Law Journal*.⁵ Serving as a federal district court judge in the Southern District of New York from 12 August 1992 to 13 October

1998,⁶ she was the first Hispanic federal judge in New York history.⁷ From 7 October 1998 until 7 August 2009, Sotomayor served as a judge on the U.S. Court of Appeals for the Second Circuit.⁸ In *My Beloved World*, the author takes the reader on a highlight tour of her life, from her first indelible memory at age eight, to the initial moments of her first trial as a new U.S. District Court judge.

Any reader hoping to glean insight into Sotomayor’s judicial philosophy will be disappointed. Sotomayor recognizes this from the outset and acknowledges, “I know that some readers will be inclined to read this chapter for clues to my own jurisprudence. I regret to disappoint them, but that’s not the purpose of this book.”⁹ As a result, without resorting to cultural or racial stereotypes, it is impossible for any reader to determine Sotomayor’s jurisprudential leanings from her autobiography. Just as Sotomayor notes, it is impossible to pick a jury based only on their cultural background,¹⁰ it would be just as foolish to attempt to pinpoint Sotomayor’s judicial leanings based on her cultural background. Others have had a difficult time determining her judicial approach other than to note that her opinions “believe easy categorization along any ideological spectrum.”¹¹

The self-described goal of *My Beloved World* is to write a memoir that will “allow [Sotomayor] to be judged as a human being.”¹² What readers should take away from this book is an understanding that success is born of hard work, that one should make the most of opportunities given, and that the integrity of the criminal legal system must be upheld by practitioners who ensure that justice is served.

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¹ SONIA SOTOMAYOR, *MY BELOVED WORLD* (2013) (quoting WILLIAM SHAKESPEARE, *THE MERCHANT OF VENICE* act 4, sc. 1.) (published in English and Spanish).

² *Id.* at 204.

³ *Id.* at 161–62. Other inductees of Phi Beta Kappa, the oldest academic honor society in the United States, include President Bill Clinton, Condoleezza Rice, and Tom Brokaw. *Who Belongs to Phi Beta Kappa?*, PHI BETA KAPPA SOC’Y, http://www.pbk.org/infview/PBK_InfoView.aspx?t=&id=59 (last visited Nov. 25, 2013).

⁴ *History of the Federal Judiciary, Biographical Directory of Federal Judges*, FED. JUDICIAL CTR., www.fjc.gov/public/home.nsf/hisj (last visited Nov. 25, 2013) [hereinafter *Biographical Directory*].

⁵ SOTOMAYOR, *supra* note 1, at 179–80.

⁶ *Biographical Directory, supra* note 4 (nominated by President George H.W. Bush).

⁷ SOTOMAYOR, *supra* note 1, at 293.

⁸ *Biographical Directory, supra* note 4.

⁹ SOTOMAYOR, *supra* note 1, at 172.

¹⁰ *Id.* at 211.

¹¹ ANNA C. HENNING & KENNETH R. THOMAS, CONG. RESEARCH SERV. R40649, *JUDGE SONIA SOTOMAYOR: ANALYSIS OF SELECTED OPINIONS Summary (2009)*, available at <http://www.fas.org/sgp/crs/misc/R40649.pdf>.

¹² SOTOMAYOR, *supra* note 1, at viii.

III. Fear, Self-Awareness, and Hard Work

A recurring theme of *My Beloved World* is that Sotomayor was driven in much of her life by fear and a sense of insecurity. Her self-reliance resulted from her fear of dying. Her determination and work ethic resulted from her fear of failure and feelings of inadequacy at the beginning of each new challenge in her life.

Sotomayor's first turning point in her life occurred when she was eight years old. She recounts listening to her parents argue over giving her insulin injections after her diagnosis of childhood diabetes.¹³ Her father was an alcoholic, incapable of caring for her, and her mother worked nights and weekends to avoid being at home.¹⁴ As a result, young Sonia Sotomayor determined that if she wanted to live, she would need to learn to give herself insulin shots.¹⁵ This one event, early in her life, serves as a lens through which to view Sotomayor's life and provides readers with an uplifting example of how to overcome adversity in their own lives. "There are uses to adversity, and they don't reveal themselves until tested. Whether it's serious illness, financial hardship, or the simple constraint of parents who speak limited English, difficulty can tap unsuspected strengths."¹⁶

Fear drove much of Sotomayor's success. With each new challenge, she felt insecure and afraid of failure. She describes her insecurities at college,¹⁷ law school,¹⁸ as a new prosecutor at the New York District Attorney's Office,¹⁹ and as a new federal judge.²⁰ In these passages, Sotomayor illustrates an important lesson for trial lawyers: overcoming the natural fear that comes with presenting a case in court requires hard work, an understanding she attributes to her

¹³ *Id.* at 3.

¹⁴ *Id.* at 11–13.

¹⁵ *Id.* at 4 ("It then dawned on me: if I needed to have these shots every day for the rest of my life, the only way I'd survive was to do it myself."). Sotomayor's mother worked nights and was not available to give the insulin injections; her father was an alcoholic and his hands trembled, making him afraid that he would hurt young Sonia. *Id.*

¹⁶ *Id.* at 11.

¹⁷ *Id.* at 144 ("The first year that I face the challenges of any new environment has always been a time of fevered insecurity, a reflexive terror that I'll fall flat on my face. In this self-imposed probationary period, I work with compulsive intensity and single-mindedness until I gradually feel more confident.").

¹⁸ *Id.* at 173 (discussing feeling insecure at Yale Law School).

¹⁹ *Id.* at 205 ("Fearing . . . humiliation, I prepared compulsively, the way I had in law school, and my reward was the chance to go out and risk it all again the next day. That I could never be sure of myself while doing it was a big reason I loved my work as a trial lawyer.").

²⁰ *Id.* at 297.

mother.²¹ The candor with which Sotomayor writes about her own feelings of inadequacy and how she copes with those feelings should resonate with anyone who has ever faced new challenges, whether at work or in life.

IV. Affirmative Action and Political Reality

Sotomayor is candid in her writing concerning her alcoholic father, whose death led to a better life for the young Sonia, her brother, and mother;²² her relationship with her mother, whom she blames for abandoning her during periods of her youth;²³ the many struggles she faced growing up in Bronx housing projects where encounters with junkies, prostitutes, gangs, and police corruption were frequent occurrences;²⁴ and her struggles to overcome her deficiency of her written English, such as buying and studying grammar and vocabulary books during summer vacations.²⁵ She also confronts another prevalent issue of the 1970s that played as big a role in her success as her self-reliance, hard work, and determination: affirmative action. Unfortunately, she does not give the political realities that led to her nomination to the federal bench the same level of analysis. Undoubtedly, this was as calculated as her refusal to provide any insight into her judicial philosophy.

Sotomayor's first encounter with affirmative action occurred when she was a senior in high school and learned that she was likely to be accepted to Princeton.²⁶ The school nurse confronted her, asking her to explain how she received a response to her application indicating likely admission when the two top-ranked students in the school only received "possible" responses.²⁷ Justice Sotomayor writes, "Her question would hang over me not just that day, but for the next several years, while I lived with the day-to-day reality of affirmative action."²⁸ Justice Sotomayor discusses affirmative action twice more in *My Beloved World*. Reactions from students at Princeton and letters to the editor

²¹ *Id.* at 115. "Seeing my mother get back to her studies was all the proof I needed that a chain of emotions can persuade when one formed of logic won't hold. But more important was her example that a surplus of effort could overcome a deficit of confidence." *Id.* (discussing her mother returning to school to earn a nursing degree).

²² *Id.* at 75. Sotomayor was nine years old when her father died. *Id.* at 40.

²³ *Id.* at 66 ("My anger still lingered at what I had perceived for so long as her abandonment and coldness toward us. It would take me many years to let go of that anger completely, and just as long for her to lose the last of her chill.").

²⁴ *Id.* at 94–95.

²⁵ *Id.* at 135.

²⁶ *Id.* at 119.

²⁷ *Id.*

²⁸ *Id.*

about the affirmative action minority students led to additional pressure to succeed and a feeling of “survivor’s guilt,” as she contemplated other minority students who were not so lucky.²⁹ Her last treatment of affirmative action comes as she recounts an encounter with a law firm partner during a dinner she attended while a student at Yale Law School. During a particularly distasteful line of questions from the partner, she maintained that students who are admitted to institutions through affirmative action can prove their qualifications by what they accomplish once there.³⁰ This is the truth of the matter, and it would be astonishing in today’s world for a conversation like this to take place. Sotomayor tackles the issue with grace and aplomb, par for the course in *My Beloved World*.

Although she had proven her ability time and again, Sotomayor faced challenges at each step of the way. The lesson for the reader is that no matter how one arrives at the opportunity presented, one can make the most of those opportunities with hard work, dedication, and perseverance. Sotomayor reminds the reader that the measure of the person is not how they arrived at any particular point in their life, but what they do when they get there. She does not force this conclusion, however. Like any good lawyer, she tells a story, based on her own life experiences, and allows the reader to draw his own conclusions.

Perhaps she had already made the point, but her perspective on the political process that led to her nomination to the federal bench would have been welcome. A partner in Sotomayor’s law firm asked her to complete the application form for the position of federal district court judge. He told her, “They’re looking for qualified Hispanics. You’re not only a qualified Hispanic but eminently qualified, period.”³¹ Although she was, no doubt, qualified in her own right, like the affirmative action that led to her admission into the Ivy League, there are people who will always wonder if she was selected for nomination to the federal bench primarily because of her cultural heritage. While Sotomayor’s work-ethic allowed her to make the most of the opportunities provided to her, more discussion of these topics seemed warranted.

V. Lessons for the Field

What makes this book a must-read for military justice practitioners are Sotomayor’s lessons learned during her

²⁹ *Id.* at 145 (“[T]he sentiment has been expressed countless times by minority students everywhere: by some accident of fate, we few among the great many had won the lottery.”).

³⁰ *Id.* at 187 (claiming that affirmative action led to the hiring and admission of unqualified minorities, the partner asked Sotomayor, “Do you think you would have been admitted to Yale Law School if you were not Puerto Rican?”).

³¹ *Id.* at 286.

years as a prosecutor at the New York District Attorney’s Office and then as a litigation attorney in the New York City law firm, Parvia & Harcourt. Sotomayor gives a somewhat humorous rendition of her first few jury trials that show a growth in her ability, as well as her views of justice as a prosecutor. In her first trial, she did not know what the judge was talking about when he told her that they would convene for voir dire on the following Monday.³² As soon as she left court, she hurried back to her office and asked her supervisor what voir dire meant. No doubt, many new trial counsel have had this same feeling of uncertainty at the beginning of their first trials. The case involved a charge for disorderly conduct against a young, black college student who had been involved in a fight. Sotomayor was well aware that any conviction would “destroy a black kid’s future.”³³ With no introspection and no apparent thought about how she could resolve the case in a way that would serve the interests of justice without destroying the defendant’s future, she prosecuted the case and, fortunately, lost.³⁴ How many trial counsel wrestle with questions of justice when they are still learning the mechanics of trial work?

Soon, however, she came to the understanding that “though [she] might win, justice would not be served.”³⁵ She learned the important lesson that all prosecutors must understand: prosecutors must keep both sides in mind.³⁶ Although all judge advocates are taught during their instruction at the Judge Advocate Officer’s Basic Course that trial counsel must serve the interests of justice, they must often be reminded of this tenet of military justice for fear it might be forgotten under the crush of their busy jobs and duties.

Fortunately for Sotomayor, she had mentors in John Fried and Warren Murray.³⁷ Of John Fried she writes, “Under an impossible caseload, his commitment to fairness was fundamental. If I believed in a defendant’s innocence or doubted a witness’s story, I would knock on John’s door. We’d sit down together and analyze the evidence for as long as it took.”³⁸ At the end of the conversation, if she could not “in good conscience” try the case, she had discretion to not

³² *Id.* at 199.

³³ *Id.*

³⁴ *Id.* at 200.

³⁵ *Id.* at 205.

³⁶ *Id.*

³⁷ *Id.* at 202–07. John Fried and Warren Murray were the first two bureau chiefs for whom Sotomayor worked at the New York District Attorney’s Office. *Id.*

³⁸ *Id.* at 205–06 (discussing mentoring she received from John Fried on prosecutorial discretion).

try it.³⁹ Her example provides lessons to both trial counsel and military justice supervisors. Trial counsel must be honest with themselves and their supervisors after they fully review the evidence and speak to all of the witnesses in the case. This preparation must be done early. Military Justice supervisors should be generous with their time and help trial attorneys work through these issues.

After she lost back-to-back trials, Warren Murray taught her that prosecutors must appeal to a jury's morality, not simply to logic.⁴⁰ Trial attorneys must argue with passion and moral certainty.⁴¹ This premise presents a more practical reason that trial attorneys must believe in their cases. Juries and panels will sense if a prosecutor does not believe in the government's case and will be less likely to convict. This premise also leads to Sotomayor's point that trial attorneys must be attentive during trial, which "figures in upholding one of a litigator's paramount responsibilities: not to bore the jury."⁴² Any trial attorney has heard these points before. The lessons are not new; nevertheless, hearing them in the context of real cases makes the lessons more meaningful.

Sotomayor also instructs on ways to make cases come alive for the panel. Charts, maps, and diagrams (in the pre-Power Point courtroom) are necessary to visually represent evidence and "prevent the jury from becoming overwhelmed by the dizzying minutiae."⁴³ She also insists that prosecutors must always visit the crime scene to take in all of the details of the location to "make the scene come to life in the minds of the jurors"⁴⁴ Likewise, Sotomayor provides sage advice regarding witness preparation. Her philosophy is that the lawyer's job is to assist the witness to understand the purpose of each question "so that you're working as a team to communicate their relevant knowledge to jurors."⁴⁵ Again, these are not new concepts. However, Justice Sotomayor provides this wisdom in the context of discussing cases she tried, thus bringing the information to life for the reader.

³⁹ *Id.* at 206.

⁴⁰ *Id.* at 209 ("Since it is painful to most jurors to vote 'guilty' and send a human being to jail, you couldn't simply reason with them to do it; you had to make them feel the necessity.").

⁴¹ *Id.*

⁴² *Id.* at 210.

⁴³ *Id.* at 242. The Criminal Law Department at The Judge Advocate General's Legal Center and School also instructs students during Intermediate Trial Advocacy Course (ITAC) training to use visual aids such as Power Point, photographs, maps, or other items to give visual opening statements and closing arguments. *The Intermediate Trial Advocacy Course*, JAGCNET, <https://www.jagcnet.army.mil/portals/jagc.nsf/home/Display.xsp?open&documentId=DB7E8C14A6D1F5D285257A37003AE8D1> (last visited 17 Dec. 2013).

⁴⁴ *Id.* at 243.

⁴⁵ *Id.* at 265.

Lastly, Sotomayor imparts advice, learned from mentor Dave Botwinik, concerning "integrity, fairness, and professional honor."⁴⁶ She posits that while the written rules of professional conduct set a minimum standard, unwritten rules set a higher standard of ethical conduct, fair dealing, and human decency.⁴⁷ The idea some attorneys have that they should take advantage of any situation is antithetical to professional honor. This goes to the heart of the legal profession. Somewhere along the way it has become the norm to merely meet the standard. Ethical behavior is not a GO/NO GO station, a point Sotomayor successfully makes throughout *My Beloved World*.

VI. Conclusion

My Beloved World is a great read and a marvelous teaching tool for military justice supervisors. While some readers may desire more insight into Sotomayor's jurisprudence and views on the political landscape that led to her appointment to the nation's highest court, the book gives the reader exactly what Sotomayor promises, and more. In *My Beloved World*, Sotomayor takes the reader on a journey of her life, imparting along the way valuable lessons on overcoming adversity for the general reader, with a bonus of technical and ethical lessons for trial attorneys. *My Beloved World* should find its way onto the professional reading list of all judge advocates.

⁴⁶ *Id.* at 261.

⁴⁷ *Id.* at 261–62 ("In the practice of law, there are rules that establish a minimum standard of acceptable conduct: what the law permits. This is the floor, below which one can't go. There are other rules, not formally encoded, which set the higher bar that defines what's ethical behavior, consistent with respect for the dignity of others and fairness in one's dealings with them.").