

Aleta: It's my pleasure to welcome Judge David Tatel, our honored guest today for Hooray for Monday. Thank you so much for joining us, Judge Tatel. Would you say hello and introduce yourself? Tell us a little bit about you and why you wrote your fabulous book: [Vision](#).

Judge Tatel: Well, hello, everybody. It's a pleasure to be here. Aleta, it's especially wonderful to be part of this podcast. I'm married to a teacher. I have a daughter who's a teacher. I have a daughter-in-law who's a teacher, and for years and years, I worked as an education lawyer, so it's nice to be part of this particular group.

I'm David Tatel. For the past 30 years I was a judge on the US Court of Appeals judge for the District of Columbia Circuit. I was appointed to that position in 1994 by President Clinton. And for the 30 years before that, I was a civil rights lawyer and an education lawyer. I worked during the Carter administration. I was the head of the Department of Health Education and Welfare in the Office for Civil Rights, which is particularly relevant to this audience because it enforced all of the major civil rights laws that prohibit discrimination on the basis of race, gender, and disability in schools.

I decided sort of near the end of my time on the court that I would retire. Federal judges have lifetime appointments so I could have continued, but I decided that 30 years was enough. I love the work but I didn't think judges should stay forever, and I decided I would retire.

I had no plans to write a book or a memoir at all. It wasn't something I was thinking about doing in my retirement, but quite a few friends and family urged me to reconsider that. They thought that my story - which involves not just all these years on one of the nation's most important courts but my struggles with declining sight and ultimately blindness - that a book about my life could be inspirational to people.

Aleta: And I'm so glad you did. As I said to you, I learned so much and I have lots more questions after reading the book which I think is a sign of a great piece of work if it sparks curiosity and more questions. So in your book, you indicate that voting rights and the environment are two of the most important issues facing our country, and of course, these are issues that are complicated and require thoughtful analysis to understand. As you know, at Inspired Teaching, we believe the job of teachers is to help young people develop the skills and mindsets that they're going to need to step into leadership roles, and that includes taking on issues like voter rights and the environment. So imagine, if you will, if you were teaching middle school or high school today. What would you want your students to learn and how would you want them to spend their time in school so that they can be prepared to tackle these issues when they become adults and step into leadership roles?

Judge Tatel: I begin from the point of view that both of these issues, climate change and voting, are highly controversial questions in our society today. So the question, I would say, is “How do I equip my seventh graders to deal with that issue?”

Well, you know, on the climate side, I think the most important thing is for students to learn the science of climate. To understand, to learn enough science and math, and physics, and chemistry, so that they can understand what's happening to our country, to our planet, and be able to participate in a debate. Not to indoctrinate them. Not to tell them, “this is what's happening, this is what we have to do about it,” but to equip them with scientific skills and reading skills they need to evaluate the competing claims that our citizens face today.

You know, when one group of people says, “well, you don't have to worry about climate change, we can adapt.” Well, how does a citizen react to that instead of just accepting it? A well-educated citizen needs to be able to evaluate that statement and make his or her own judgment about whether he or she agrees with it. I would want my seventh graders to begin to learn that.

On the voting side, same thing. The first thing I would want my seventh graders to learn, I would want them, through whatever books or materials we read, to understand that the right to vote is critical to all other rights. There's no more important right in our Constitution than the right to vote.

I would want my seventh graders to learn the importance of voting under the original Constitution. How voting has been the history of our country - is in many ways *the history* of the expansion of the right to vote. Very few people could vote at the beginning. Basically white men with property. Now look at our country. I would want my students to understand that history, and I would also want my students to understand the current threats to the right to vote.

So the bottom line, Aleta, is I would want to develop a curriculum for my seventh graders that's ultimately aimed at preparing them to be good citizens.

Aleta: Do you have other advice for teachers of students of all ages of how to make it clear that it matters to vote. How do you do that for kids for whom it's kind of an abstract idea, voting?

Judge Tatel: By telling stories. There are lots of stories that you can use in school that demonstrate why an individual vote can make a difference. We live in a democracy and the

ultimate responsibility of citizens is to participate in that democracy, and the vote is the way you do it. Your vote may not change the outcome of the election. It probably won't, but we're all citizens and citizens have an obligation and a responsibility to participate.

You can tell lots of stories about how, you know, a couple of votes here or there can make a huge difference in an election, and you can start with local elections.

Everybody thinks about voting in terms of voting for president, but remember, we also vote for mayor, and we vote for county councils, and we vote for school boards, and those elections are always quite close. You can see how these elections sometimes turn on one, two, or three votes.

They make a big difference and also at the national level, you know, if I were teaching 10th grade right now or 11th grade and trying to convince people of the importance of the right to vote, I would tell them the story of Wisconsin and Michigan in the past election.

Those two states are perfect examples of how voting can bring about a dramatic change in an entire state, and if you can do it in an entire state, imagine what you can do in a town or a county, or even nation. So it's the story. Stories will do the trick.

Not too long ago, I had a case on my court involving a law passed by the state of Texas that required voters to have an ID to vote. This is one of the basic ways in which southern states used to suppress the right to vote. They require photo IDs which a lot of poor people and especially poor minority people don't have easy access to.

So we had a trial about that case and we heard lots of witnesses and I was really struck by the passion in the courtroom from these elderly Black men and women. Remember they grew up in Texas. They had been Black people who couldn't vote in Texas, and they testified about how important voting was to them, how thrilling it was for them to finally be able to go to a polling place, walk into the voting booth, close the curtain, and vote.

When you hear those people testify, you have no doubt about why you should vote. You show every seventh grader the testimony of those witnesses and I guarantee you that they'll go vote when they're adults.

Aleta: Throughout your book, you share many beautiful stories about your interactions with your children and your grandchildren, including how you've taught them to think through the challenges that they face in life, so speaking of stories and continuing on the theme, would you share some insights on how to teach young children to puzzle through problems?

Judge Tatel: Our children had a special opportunity to solve problems because they had a dad who had a serious visual disability. Even when they were little, they understood that they had a special responsibility, and they learned on their own and sometimes with our help to take on that responsibility in terms of simple things like helping me move from one place to another. Even the little children knew how to do that and we've done the same thing now with the next generation, even the littlest ones instinctively will take my hand if my guide dog isn't here.

In the book, I tell the story of how each of our children went on a trip to New York with me. They were responsible for me during the day in terms of moving around taxicabs, airplanes, maneuvering, and navigating through New York City. That was a level of responsibility that was pretty unusual for a 10 or 11-year-old or a 12-year-old, but you know, like they all look back on those trips to New York with their dad as a real seasoning opportunity for them.

Aleta: As teachers, we should not push our beliefs, especially not our political beliefs on our students, but teachers, like judges, we're not neutral. There's no neutral. We do have strong principles and values that guide us personally and professionally and our students should know that and so a guiding value you discuss in the book is judicial restraint. Will you explain judicial restraint?

Judge Tatel: To put it in its simplest terms, we have three branches of government. We have the executive branch, the legislative branch, and the judicial branch, and that was designed on purpose to create tension within the government. It's called the separation of powers, checks and balances, and the idea is that if you have three branches of government and all are required to act, that's the way you protect individuals from the abuse of governmental power.

Now, the challenge here is that one of those branches, the judiciary branch is not elected. Judges are appointed for life whereas members of Congress and the president have to run for election, and also the courts have enormous power potentially over the other two branches. They can declare laws unconstitutional, and they can prohibit the president from acting in violation of the law. So the challenge is, how do you, how do we, protect the separation of powers when one of the branches has enormous power over the other?

Well, the answer was judicial restraint. Over the centuries the court on its own developed principles of judicial restraint under which the courts restrained themselves. They husbanded their own power carefully. They used it only when absolutely necessary to ensure the protection of constitutional rights.

So this includes things like faithfulness to the language of the Constitution, faithfulness to the laws that Congress passes, and respect for Congress following precedent. All of these things are designed to keep the court focused on the law and not intruding into the affairs of the other two branches of government. That's what judicial restraint is.

Aleta: You talked a little while ago about making sure the students have the skills and the mindsets to grapple with problems on their own. Do you have advice for teachers in how to do that in a way that doesn't say, "Hey, listen, ninth graders, here's the outcome I think you should reach," but I can still say, "I believe you should really analyze your sources and think deeply about this issue." Can you give us some advice on how to navigate that?

Judge Tatel: Well, if you take the climate change issue that you asked me about before, the challenge I think teachers face in teaching climate change and I face in deciding cases where climate change is an issue are actually pretty similar. And I hadn't really thought about this until you asked the question.

My court reviewed the decisions of the Environmental Protection Agency, and one of the things the EPA has been doing is taking account of climate change. For example, it's issued regulations to limit carbon dioxide emissions. Why? Because the EPA thinks it contributes to climate change. So now, those decisions get challenged and end up in my court and I have to decide whether they're legal, whether the agency has acted legally.

Now, what I think about climate change is irrelevant to that question. There are three judges on each of our cases and we could have three different views about whether climate change is serious or not, but as judges, we can agree on the outcome of the case because we're applying the law. We're not applying our own views.

So the question in our cases is: did the agency have the legal authority to issue the regulations? *Not* whether David Tatel thinks climate change is good or bad.

It seems to me that's exactly the situation a teacher faces. It doesn't really make any difference what the teacher thinks. In fact, it's probably a good idea that the teacher not proselytize. The teacher's responsibility is setting aside his or her own views to teach the science and math and history that the students need to make their own decisions about climate change.

So, in that sense, a judge and a teacher are engaged in the same thing. Same challenge. I think that's true.

Aleta: As teachers, we are often told not to share our personal stories and not to share much about our personal lives with our students, and on the one hand, of course, we should avoid sharing things that are inappropriate, but I believe it's important for teachers to share our humanity with students - including sharing as appropriate some of the challenges we've faced in our own lives. And I think sharing this vulnerability can make us strong role models for our students. In your book, you speak so beautifully about your experience with becoming blind, hiding your blindness, and then deciding to share this part of your life experience and your identity so that others can benefit from your story.

Can you give advice to our teachers about how and when to share their stories with their students?

Judge Tatel: I can tell you what I think about it from a judge's point of view. At one level, my personal story is completely irrelevant to my job. My job as a judge was to hear our cases and to the best of my ability to apply the law of the facts and decide the cases, and my personal story was irrelevant to that. It made no difference whether I was, you know, white or Black, had a disability or not, tall or short, made no difference. The law is the law.

And in that sense I can understand how a teacher would have a very different view about that in terms of her responsibility because I can imagine how a teacher sharing his or her personal experiences with her students could be critical to improving the education that goes on in the classroom just in terms of inspiration or understanding.

But in the day-to-day job of a judge, my experience, my personal experience was irrelevant, but at a broader level it obviously *is* relevant, and this isn't something I understood completely until I wrote the book.

I spent a huge amount of energy first covering up my declining sight and then when I couldn't cover it up, treating it as something that was not relevant to me.

Looking back on it, I asked myself, why did I do that? I did it because when I was younger, you know, people don't want to be different. People don't want to acknowledge a disability for lots of reasons, and as I went to law school and started practicing, well, I worried that it would adversely affect my employment opportunities. So there were lots of reasons I did that.

I think now after all these years, that sharing my experience with the world could actually be helpful. That's why I wrote the book. If my book can fill the gap that I face, with young people today, then I think sharing my story will be helpful because I hope that young people who read this book who have a disability, whether it's visual or hearing or whether they're in

a wheelchair or whatever and think, oh, I don't have to hide it. I can perform at the highest levels.

And in fact what's interesting, and I hadn't realized this about writing a book, *Aleta*, is that since the book's been out, I've had two or three emails and letters every day from people I don't know, telling me that, you know, I've told their story in my book also.

And so that's a way in which it's a long answer to your question about sharing my story, not related to my day to day job, but in a sense, dramatically related to the bigger picture of our judicial system and how it works and how people with disabilities can function in it. So, I think in a way, sharing my story at that level was a useful thing to do.

Aleta: So at Inspired Teaching, we encourage teachers to start each school year by creating a classroom Constitution with their students: a set of rights and responsibilities to govern their classroom for the year. As a judge, of course, you don't write the rules, but you are deeply conversant with the US Constitution. So each year teachers have the opportunity to start fresh with a brand new group of students, which is happening right now as school is starting for the year in many parts of the country, and teachers can create a strong and thriving community with their students.

What questions would you encourage teachers to ask their students as they work together to create their class constitutions?

Judge Tatel: I go back to the question: what do you want our Constitution to do? Why do you want a Constitution? What's its purpose?

So going back to our own Constitution, the US Constitution, why did our country, the former colonists, why did they want a Constitution? What did they want to accomplish in their Constitution? Well, all you have to do to answer that question is read the Declaration of Independence.

The framers wanted a constitution that was the opposite of authoritarianism. They wanted a constitution where the people create the government and give it its authority and it has no other power, and they also wanted to enshrine in that document the basic rights of the people, that is, the rights the government could not interfere with. That was the purpose of the Constitution.

So then, then you get to your classroom and I would say, "what are you trying to accomplish?" Well, I assume what you're trying to accomplish is a place where learning can

occur. You want a Constitution that describes the responsibilities and powers of the teacher and the obligations and responsibilities of the students.

Just as for the framers of our Constitution, everything they did was in service of maximizing human freedom and protecting it from the abuse of government, everything the writers of a classroom Constitution are trying to accomplish is to create a classroom where learning can occur, and to me that means defining the roles so that everybody - the teacher and the students - understand what their roles are and respect each other's roles. And once that's done, then it seems to me the learning can begin.

Aleta: I particularly love the idea about defining roles for both the teachers and the students because I think so often the experience of being a student in the school is, I show up and my role is to do what they tell me.

Judge Tatel: That's right. I'm gonna put my judge hat back on for a minute. The Supreme Court has ruled that students don't lose their constitutional rights at the schoolhouse door. Students have rights under the Constitution in their classrooms, in their schools. Now they're age dependent, and they're not the same as the rights you have as an adult, but there are constitutional rights that students have that teachers have to respect.

One of the cases I talk about in the book is we did a mock court trial years ago for DC Public School students involving a case called *Tinker v. Des Moines*, which was the case where students had been disciplined because they wore black armbands during the Vietnam war. Students were suspended for that. The Supreme Court ruled that violated the students' First Amendment rights. It ruled that they have a right to express themselves in school so long as it doesn't interfere with school discipline and the learning environment.

And so even at that little level, you know, a real classroom constitution has to take account of the constitutional rights of the children.