

# The Texas Lawbook

Free Speech, Due Process and Trial by Jury

## Houston Lawyer Reminisces: Learning Spanish with Justice Breyer



January 27, 2022 | BY TONY MAURO

Denise Lambert Drake, an associate at Gibbs & Bruns in Houston, was one of very few – if any – law clerks from Texas who worked for U.S. Supreme Court Justice Stephen Breyer, a native of San Francisco with a home in Cambridge, Mass.

Drake grew up in Boerne, near San Antonio, and when she ended her clerkship with Breyer in 2017, Breyer approved of her decision to return to Texas.

“I was grateful to have Justice Breyer’s mentorship about my decision to practice law in my home state of Texas, an unusual departure from the mass exodus of Supreme Court clerks to the two coasts,” she said in an interview Wednesday. “As Justice Breyer well knows, the legal world is far bigger than that.”

Word of Breyer’s plan to retire at the end of the court’s term in late June or July leaked from the White House on Wednesday, launching a whirlwind of speculation over his potential successor.

Drake heard the bombshell on the news and she and her fellow Breyer clerks were soon swapping memories online of their time with the justice.

She viewed Breyer as “a mentor and a friend,” and said, “all the superlatives in the world can’t measure up to his warmth and kindness and sense of humor.”

One memory that stayed with her was Breyer’s determination to learn Spanish. “Most every afternoon we would meet in front of his fireplace for a Spanish lesson,” Drake said. “From reading literature and poetry to debating the news to discussing a telenovela—all in Spanish—his passion for learning had him speaking fluently in no time. It was only one of so many ways in which Justice Breyer kept in touch with the real world beyond the Supreme Court building.”

Drake continued, “He views the Court as the embodiment of the rule of law, one whose authority—hard won but easily lost—derives from being a symbol to real people in the real world that democracy works for them. To Justice Breyer, those are not abstract ideals but practical commandments. They guide every decision and every discussion we had with him as clerks.”

Those discussions were wonderful, Drake said. “Our days as clerks were marked by animated debates about every angle of every

# The Texas Lawbook

case. Justice Breyer would pace chambers deep in thought, always curious and eager to learn from his clerks and his colleagues.”

Coincidentally, Drake became interested in the law and the Supreme Court in Boerne. It was the locale of a major religious freedom dispute that went all the way to the high court in the case *City of Boerne v. Flores*. It involved local zoning restrictions imposed on St. Peter Catholic Church. As a child Drake attended the church, and she followed the news about the Supreme Court case.

Drake got her B.A. at Harvard University and her J.D. at Stanford University. She clerked first for Judge Patrick Higginbotham of the U.S. Court of Appeals for the Fifth Circuit from 2013 to 2014, and then clerked for Charles Breyer, Stephen Breyer’s brother and judge on the U.S. District Court for the Northern District of California, before clerking for Justice Breyer.

Gibbs & Bruns turned out to be a good fit for Drake. “I am surrounded by brilliant colleagues who embody the highest ideals that Justice Breyer champions for the legal profession,” she said. “I focus my practice at Gibbs & Bruns on appellate law, and I strive to imbue every brief and argument with the guiding principles that Justice Breyer taught me: the highest of ethics, scrupulously honest and rigorous legal reasoning, and a keen sense of how the law works in the world.”

Justice Breyer’s retirement is a “great loss to the Court,” she said, “and his absence both on the bench and behind the scenes will be deeply felt. But the legacy he leaves will be carried on at the Court, in the law, and by all his former clerks who love and admire him so greatly.”