

Los Angeles Times
April 23, 2007 Monday

SECTION: CALENDAR; Part E; Pgs. 1, 8

LENGTH: 1068 words

HEADLINE:

Open case on Clarence Thomas
Supreme Discomfort The Divided Soul of Clarence Thomas Kevin Merida and Michael A. Fletcher Doubleday: 422 pp., \$26.95

David J. Garrow, Special to The Times

CLARENCE THOMAS is the most intriguing and perplexing of the U.S. Supreme Court's nine justices. Sixteen years ago, Thomas narrowly won Senate confirmation following an ugly debate over unproved allegations of sexual harassment. Once on the court, Thomas quickly began articulating a consistent, conservative judicial philosophy in which the original intent of the Constitution's framers, as best that can be determined, trumps all other arguments and considerations.

Yet personal complexities, if not contradictions, accompany Thomas' legal consistency. He is usually silent when the court hears oral arguments, allowing such highly talkative colleagues as Antonin Scalia and new Chief Justice John G. Roberts Jr. to dominate the questioning. Off the bench, Thomas is the most accessible justice, hosting groups of visiting schoolchildren and chatting up strangers when he and his wife, Ginni, drive around the country in their comfortable motor home during vacations. Yet he refuses to speak with most journalists, even though most of his fellow justices have become increasingly chatty with legal reporters.

Earlier this year, however, Thomas granted a rare interview to BusinessWeek's Diane Brady at the behest of a former mentor at the College of the Holy Cross, whom Brady was profiling. The justice pointed to a print he keeps in his office picturing an utterly exhausted African American man draped over a desk. It was a gift from a friend who "thought it captured my life," he explained. Does it? Brady asked. Yes, he answered, "Look at the exhaustion." Asked what sort of exhaustion, Thomas responded: "Everything. Mental. Physical. Spiritual. Just constant change. You just want to slow down. You see people take a walk and you want to, too."

But isn't serving on the Supreme Court "where you want to be, where you can have the greatest impact?" Brady suggested. "Nah," Thomas replied. "I don't think you should do these jobs with that in mind. I don't think you should relish affecting people's lives like that, because you don't know whether you have the right answers. Along the way, you learn that."

Rarely do top public figures reveal themselves as much as Thomas did with Brady. That makes it all the more regrettable that Kevin Merida and Michael A. Fletcher's new biography of the man, "Supreme Discomfort," lacks any input from Thomas, who declined the authors' repeated requests for interviews.

Merida and Fletcher write for the Washington Post, where they co-authored a lengthy profile of Thomas in 2002, the springboard for this book. A compelling authors' note details the obstacles they encountered trying to interview the unwilling justice. "One or both of us would approach Thomas at receptions, dinners, speeches, congressional hearings, wherever the possibility of a chat existed. He was always cordial," they explain, but those brief conversations "almost always included some harsh critique of the media." Indeed, Thomas' antipathy toward journalists dates to his time working in the Reagan administration, even before serving briefly on a federal appeals court and his bruising Supreme Court confirmation hearings. "The media," he told BusinessWeek's Brady, "have been universally untrustworthy because they have their own notions of what I should think or I should do."

One of the most persistent media myths about Thomas is that he follows the intellectual lead of fellow conservative Scalia. ABC News correspondent Jan Crawford Greenburg's recent book on the court, "Supreme Conflict," demonstrated the falsity of that portrait. One of Merida and Fletcher's signal achievements in "Supreme Discomfort" is getting Scalia to address that issue.

Merida and Fletcher approached Scalia in a hotel lobby, and Scalia agreed to meet them for what became a series of three lunches at his favorite Italian eatery. Questioned about that view of Thomas, Scalia replied, "It's a slur on me as much as it is a slur on him -- like I'm leading him by the nose.... I don't huddle with Clarence and say, 'Clarence this is what we're going to do.'" The myth's persistence, Scalia said, is "either racist or it's political hatred."

Much of the public's perception of Thomas stems from his 1991 confirmation hearings, in which he denied law professor Anita Faye Hill's claims that he had told her graphically obscene tales when she worked as one of his assistants at the Equal Employment Opportunity Commission in the early 1980s. Merida and Fletcher recount the contradictory testimony and acknowledge that "no new evidence ... has emerged to clear up the mystery" in the intervening years. "[O]nly Hill and Thomas know for sure what transpired between them," they observe. "But loyalists on both sides strongly suspect there is more to Hill and Thomas's shared history than either of them has owned up to." Indeed, citing an unnamed close relative of Hill's, they add that "even some of her immediate family question whether she was completely candid during the hearings."

Merida and Fletcher's portrait of Thomas veers between the insistently negative and the occasionally empathetic. They acknowledge the help of a psychology professor whom they call "an expert in developing personality profiles of public figures," but fortunately little overt psychologizing mars the narrative. The African American writers assert at one point that Thomas "is in constant struggle with his racial identity," but in a more thoughtful passage they explain that as an African American, he has "a greater need not to be typecast, which is a synonym for limited, which is a synonym for inferior."

Merida and Fletcher conclude that rather than being a "rigid ideologue" or "Scalia's lapdog," Thomas is "a much more complex man, who cannot be easily categorized." It's to their credit that "Supreme Discomfort" sometimes captures that reality, and never better than when they quote Washington attorney Thomas C. Goldstein's appraisal of Thomas. "The public image of him and the sense you come away with in a one-on-one conversation couldn't be more different,"

Goldstein told them. "And this is from someone who is not a fan of his ideology or jurisprudence. But I am a fan of his personally."

Indeed, human beings are always about more than just ideology, even when they're Supreme Court justices.

David J. Garrow, a senior fellow at Homerton College, University of Cambridge, writes regularly about the U.S. Supreme Court.

GRAPHIC: PHOTO: RETICENT: Thomas refused writers' interview requests.
PHOTOGRAPHER: Chip Somodevilla Getty Images