

and the Boys spent six months to make the ninety hours of tape that provided the three minutes and thirty-five seconds of "Good Vibrations." The mise-en-scène of the new *Smile* is the concert hall, not the studio; and so the CD denies *Smile* the essence of Wilson's aesthetic.

The biggest problem with *Brian Wilson Presents Smile* is the absence of the group for which the music was composed. "The thing is," Wilson explained in an interview in 1966, "I write and think in terms of what the Beach Boys can do." *Smile* was conceived for and geared to their voices—the exquisite blend of their literally related vocal instruments, the muscular grace of Carl Wilson's lead singing, and Mike Love's contrapuntal bite. The Wondermints, who are highly proficient musicians, do not have the personality of the Beach Boys; they have a personality of their own, a snarky one that gives their CDs of original material an ironic kick, but they keep it in check here. What they are doing on *Smile*—superbly—is mimicry, which is a difficult job, but something intrinsically devoid of the veracity and the individuality that made the Beach Boys wonderful. Brian Wilson was never the best singer in the group, and he is trying to carry all the lead vocals some four decades after his prime. His voice, a game old soldier too weak for duty, trudges through the new *Smile*, struggling to stay in key, swallowing words.

FOR ALL THE HAZARDS INHERENT in the task, artists such as Wilson certainly have the prerogative to return to old work years after the fact. Hell, they're the artists, and it is their work. If Manet could go into people's houses and repaint sold canvases, an aging Beach Boy can re-record "Heroes and Villains." But another question remains: does a different person have the right to take up another artist's incomplete work and attempt to finish it or to restore it? That is closer to the point with *Smile*.

Brian Wilson is a vastly different man today than he was when he left the music unfinished. We all change over time, though rarely as much as Wilson has as an artist. A few months ago, he released the most recent of his solo CDs, *Gettin' in Over My Head*, an assemblage of new recordings so bland, formulaic, and corny that they are irreconcilable with the work of the man who set out to create *Smile* years ago. They were done by someone

else, and that person is clearly not functioning on the same creative level as Wilson was in 1966. It is no wonder that Wilson relied upon colleagues to help bring *Smile* to the stage and now to CD. What they did is well meant, but it is also at once indistinctive and excessive, like the scene of *Turandot* added by another composer after Puccini's death.

Toscanini famously dropped his baton when he reached the last bar that Puccini wrote. We could do something roughly comparable and listen only to the original *Smile* recordings—if a legitimate record company would release them. In the meantime, we have only *Brian Wilson Presents Smile*. Brian Wilson's *Smile*, masterpiece or not, is still lost. ■

David J. Garrow Saving Thomas

JUDGING THOMAS:
THE LIFE AND TIMES OF
CLARENCE THOMAS
By Ken Fosskett
(Morrow, 339 pp., \$24.95)

THIS WEEKEND CLARENCE Thomas celebrates his thirteenth anniversary on the Supreme Court. Thirteen years is a long time, yet most Americans over the age of thirty no doubt still know more about Thomas's confirmation hearings before the Senate Judiciary Committee than they know about his judicial opinions since that time. Sitting justices usually make news only if they are the victim of an attempted mugging, like David Souter earlier this year, or if their choice of vacation partners leads to an ethical dust-up, as did Antonin Scalia's duck-hunting jaunt with Dick Cheney, a litigant in a case before the court. But Thomas is different. Sandra Day O'Connor can give speeches at various colleges and bar associations without garnering any out-of-town press attention, but a Thomas speech to a bar group can generate a front-page, above-the-fold story in *The New York Times*. O'Connor and Chief Justice William H. Rehnquist can publish books about the Court that earn only gently respectful reviews, but when Thomas offers to write a memoir, competing publishers' bids top out at the remarkable sum of \$1.5 million.

Anita Hill, who in 1991 publicly accused Thomas of having sexually harassed her ten years earlier, has disappeared from the public eye. Any conclusive resolution of their conflicting accounts of what happened between them now appears highly unlikely. But

Thomas remains a lightning rod, less for the notoriety of that now-fading controversy than for the bold political views that fueled his Reagan-era rise and still inform his most notable judicial opinions. Vitriolic attacks on Thomas as a Republican lawn jockey long pre-dated his confirmation battle, but during his first half-dozen years on the Court they continued apace. Prominent African Americans asserted that not only was Thomas an unworthy successor to Thurgood Marshall, but that he was not truly black.

Few citizens read Supreme Court opinions or have any other opportunity to plumb how a justice is evolving philosophically. What few impressions the public obtains about a justice thus tend to stick indelibly, if only because so little new information ever emerges from so opaque an institution as the Supreme Court. In Thomas's case, the images of a decade ago—a lecherous yes-man whose reactionary conservatism blinds him to human suffering—may still supply the stick-figure portrait most Americans bring to mind when they hear Thomas's name.

Close observers of the Court know how fictional this picture is, but explicit challenges in the mainstream press to the dominant stereotype have been rare. Now comes this biography by Ken Fosskett, a reporter for the *Atlanta Journal-Constitution*. Three years ago, on the tenth anniversary of Thomas's nomination by President George H.W. Bush, Fosskett authored a three-part newspaper

David J. Garrow is the author of BEARING THE CROSS (Morrow), a Pulitzer Prize-winning biography of Martin Luther King Jr.

series on the justice's life. While reporting those stories, he approached Thomas outside the small Roman Catholic church on Capitol Hill where the justice regularly attends morning Mass. Thomas, like all his colleagues, shuns most media interactions, but he chatted willingly with Foscett. "We walked and talked all the way to the Supreme Court and continued our discussion for another twenty minutes in the lobby," Foscett recounts. Thomas sustained their interactions—"correspondence, phone conversations, and several hours-long discussions about his life and American history"—even as Foscett expanded his work into a book. And two of Thomas's judicial colleagues, Antonin Scalia and Ruth Bader Ginsburg, granted Foscett on-the-record interviews, an almost unprecedented degree of cooperation in a book about a sitting justice.

Judging Thomas is certainly a sympathetic portrait, but even though Foscett eschews direct criticism of Thomas's record and opinions, some of his implicit psychologizing—"inwardly [Thomas] craves attention and esteem"—will certainly leave the justice squirming. As with other journalistic biographies of Supreme Court justices, such as Juan Williams's *Thurgood Marshall: American Revolutionary*, Foscett makes no pretense of having thoroughly reviewed Thomas's judicial opinions. "The key to unlocking Justice Thomas's decision making is not dissecting the opinions but understanding the man who wrote them," he announces at the outset.

That insistence is not entirely wrong, for Thomas's judicial opinions on both race and religion sometimes feature what Foscett rightly calls "ideas torn straight from his youth." A more extensive examination of Thomas's opinions, especially his concurrences and dissents, could have significantly enriched *Judging Thomas*. But Foscett's hundreds of interviews with Thomas's family and friends allow him correctly to identify and to explain what appears to be the decisive turning point in Thomas's post-confirmation life, and that contribution alone marks this book as an important and overdue biography.

THE OUTLINE OF THOMAS'S early life was widely publicized at the time of his nomination. Born in 1948 in Georgia, in a poor, rural, all-black community called Pin Point, Thomas hardly knew his father and was raised primarily by his grandpar-

ents. His grandfather, Myers Anderson, was a stern and hardworking taskmaster who attained economic success despite his humble roots and his limited schooling. The young Thomas attended all-black Roman Catholic schools until his high school years, when he volunteered to be one of the first two black students to desegregate a previously all-white Catholic boarding school near Savannah.

Foscett does a fine job of describing the world of Thomas's youth, but he makes insufficient use of a remarkably self-reflective speech that Thomas delivered to the historically black National Bar Association in Memphis in 1998. *The New York Times* gave the speech front-page coverage following prolonged controversy within the lawyers' group over whether or not Thomas should speak, a battle that diverted attention from much of what Thomas had to say. If his Memphis remarks at all foreshadow the memoir that he is now writing, Thomas may become by far the most self-revealing justice ever to sit on the Supreme Court.

In Memphis, Thomas recalled that it was during his first year at that large-

ly white school that he "answered with a resounding 'yes'" the question of "whether as an individual I truly believed that I was the equal of individuals who were white." Upon graduating in 1967, Thomas left Savannah to attend a tiny Benedictine college in western Missouri. His goal was to become a Roman Catholic priest, but he quickly learned that the overt racism that he had experienced in Georgia existed outside the South, too.

The first major turning point in Thomas's life occurred on April 4, 1968, when news of Martin Luther King Jr.'s assassination prompted one of his white classmates to exclaim, "Good. I hope the SOB dies." Thomas was horrified, by King's killing and by his fellow seminarian's response. That night he resolved to leave school when the semester ended and to abandon his goal of the priesthood. Thirty years later, Thomas recalled his experience of King's death. "The rush of hopelessness and isolation was immediate and overwhelming," he told his Memphis listeners. "This cataclysmic event ripped me from the moorings of my grandparents, my youth, and my

"THE INTERESTS OF MUSLIMS AND THE INTERESTS OF THE SOCIALISTS COINCIDE IN THE WAR AGAINST THE CRUSADERS."
— OSAMA BIN LADEN, FEBRUARY 14, 2003.

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faith” and “shattered my faith in my religion and my country.”

THOMAS RETURNED TO SAVANNAH, where Myers Anderson reacted with fury to his grandson’s decision, creating a rift that Foskett says “never fully healed.” Thomas moved into his mother’s small apartment, and later remembered that “I stood at the brink of the great abyss of anger, frustration, and animosity.” When the nun who taught him high school chemistry encountered him on the street and heard his story, she called a former student who was attending the College of the Holy Cross in Massachusetts and begged him to tell school officials about Thomas. An application packet arrived in the mail, and Thomas reluctantly completed it out of a sense of obligation to his teacher. Holy Cross quickly offered Thomas an academic scholarship, and in the fall of 1968 he enrolled there as a sophomore. He waited tables for more than five hours a day in a campus dining hall and became an active member of the Black Student Union. When the group voted on a proposal for an all-black floor in a dorm, Foskett reports, the plan “passed 24 to 1. Thomas was the lone holdout.”

Thomas’s opposition to self-segregation went hand in hand with his advocacy of “complete liberation from the slavery that whites—whether knowingly or otherwise—persist in foisting upon the black man,” as he wrote in 1969 in the campus newspaper. Thomas was friends with Holy Cross’s half-dozen black Muslims, and he volunteered regularly in a free-breakfast program inspired by the Black Panthers. During that work he also became involved with Kathy Ambush, a local woman whom he married in 1971 just as he graduated from Holy Cross. Foskett says little about her.

During his senior year Thomas was accepted by several distinguished law schools, and he enrolled at Yale, which offered the best financial aid. His years at Yale were very unhappy. “I didn’t belong there,” he told Foskett. “I didn’t fit in.” Foskett writes that “Yale’s elitism reawakened Thomas’s deep resentments over class and racial distinctions.” In contrast to Holy Cross, Yale Law School found Thomas “nearly always sitting at the black table in the dining hall.”

During Thomas’s second year of law school, his son Jamal was born. As grad-

uation approached, Thomas looked forward to receiving a job offer from a prominent Atlanta law firm, and so turned down a chance to work for a well-known black lawyer in Savannah. But the Atlanta offer was not forthcoming until after an increasingly desperate Thomas had already accepted a lower-paying job with Missouri Attorney General John Danforth. That turn of events, Foskett says, left Thomas “utterly mortified and defeated” and “badly damaged his self-esteem.” But working for Danforth in Jefferson City, Missouri’s small and remote capital, proved to be a joy. “It wasn’t black this and black that,” Thomas told Foskett. “I didn’t have to play any roles. . . . You got to be you.” Foskett portrays it as an idyllic time. “‘It was the best job I’ve ever had,’ said Thomas, sitting in his Supreme Court chamber more than twenty-five years later. ‘Still, to this day, it’s the best job I’ve ever had.’”

THOMAS SPENT LESS THAN three years in Jefferson City, because in 1976 Danforth was elected to the Senate and, rather than accompany his boss to Washington, Thomas took a far better-paying job in St. Louis with the Monsanto Corporation. Danforth’s renewed offer of a Senate staff job brought Thomas to Washington in 1979. Fifteen months later Ronald Reagan won the presidency from Jimmy Carter, and a pre-inauguration *Washington Post* article on up-and-coming black Republicans singled Thomas out as especially noteworthy. He told Juan Williams of *The Washington Post* that he had no desire for any civil rights post in the executive branch, but six months later, when the new administration offered him the job of assistant secretary for civil rights at the Department of Education, Danforth and other friends prevailed upon him to accept it. Eleven months later, the White House named Thomas chairman of the Equal Employment Opportunity Commission. It was a high-profile post at an agency that often attracted partisan crossfire from Congress, and the eight years that Thomas spent as chairman, between 1982 and 1990, included repeated run-ins with minority interest groups upset over EEOC policies and Thomas’s own pronouncements.

How did Thomas become a Reagan conservative? Foskett says that even at Yale “Thomas’s class sensitivities were beginning to steer him away from liberal

politics.” He also notes what he calls Thomas’s “natural contrariness.” But the key to Thomas’s evolution almost certainly lies in his “lifelong battle to define his own identity.” His refusal to allow others to put him in pre-determined pigeonholes reaches back all the way to his teenage struggles for a modicum of independence from his domineering grandfather. That pattern repeated itself throughout high school, college, and law school, and Foskett asserts that it gave way, in an “erosion of principle,” only when Thomas moved to Washington and allowed Danforth and the Reagan White House to propel him into stereotypically black jobs that he had vowed he would never accept.

Foskett says that Thomas’s years at the EEOC featured repeatedly unsuccessful efforts to demonstrate political independence from the White House and the Justice Department, but the book’s treatment of those years is rather sketchy. Those years also witnessed significant upheavals in Thomas’s private life: he was divorced, he increasingly assumed primary custody of his young son, and he married Virginia Lamp, a younger woman who is white, in 1987.

HIS LIFE CERTAINLY ENTERED a new chapter soon after George H. W. Bush became president in 1989. Bush’s counsel, C. Boyden Gray, recommended Thomas for the appellate judgeship on the high-profile U.S. Court of Appeals for the District of Columbia Circuit that had just been vacated by the unsuccessful Supreme Court nominee Robert Bork. Thomas was ambivalent about becoming a judge—“I never made up my mind, and just sort of went along and filled out the forms,” he told Foskett—but later that year his nomination went to the Senate. Only one vote was cast against him in the Judiciary Committee, followed by just two on the Senate floor, and in March 1990 he ascended to the appeals court at the age of forty-one.

According to Foskett, President Bush wanted to name Thomas to the Supreme Court just five months later, when Justice William J. Brennan stepped down, but Gray and other advisers convinced him that Thomas was “too young and inexperienced” for so rapid a promotion. Yet a year later, when Justice Thurgood Marshall retired, Bush lost no time in nominating Thomas for the vacancy. Foskett reprises the angry drama of

Thomas's confirmation battle without adding any startling facts. He asserts that Anita Hill's identity and allegations "were Washington cocktail conversation weeks before she became a household name." He also portrays Thomas as no more decisive about whether to persevere or to withdraw than he had been in his apparently reluctant acceptance of his earlier appointments.

"I didn't have any energy to go back and keep fighting," Thomas told Foskett, who writes that "in the end Thomas said he simply did what everyone was telling him to do" by appearing for a second time before the Senate Judiciary Committee to angrily rebut Hill's claims. The final vote, fifty-two to forty-eight, was the narrowest confirmation in Supreme Court history, and the cost of victory was steep indeed. "Thomas would never be the same. He emerged scarred and traumatized" and "profoundly altered," Foskett writes. Scalia told him that Thomas was "beaten down" when he joined the court. "It took him several years to get over the beating he took. He was very bitter about it."

THOMAS'S FIRST YEAR AS a justice featured his widely criticized dissent in *Hudson v. McMillian*, in which a prisoner asserted that the rough treatment he had received from a guard violated the Eighth Amendment's prohibition of "cruel and unusual" punishment. Relying upon a lower court's characterization of the prisoner's injuries as "minor," Thomas said that the constitutional answer was no. "A use of force that causes only insignificant harm to a prisoner may be immoral, it may be tortious, it may be criminal, and it may even be remediable under other provisions of the Federal Constitution, but it is not 'cruel and unusual punishment,'" he wrote. Criticizing what he called "the pervasive view that the Federal Constitution must address all ills in our society," he emphasized that "abusive behavior by prison guards is deplorable conduct that properly evokes outrage and contempt. But that does not mean that it is invariably unconstitutional." Instead, he asserted, "primary responsibility for preventing and punishing such conduct" belongs to the states, not to the federal courts.

Iphigenia's Dissent

Distinguish the hour before sunrise from the hour before the light fades. Disappear into time, as now, when I hear the howl of distant wolves. I douse the fires in the mouths of my doublemouthed cave. My discontents sour.

Father, I will depose you but once: How could you? Is this a face that asks to die? You want a sacrifice? I say, get a goat. I will not be butchered like some shepherd's kid.

I am like my Queen, reclining in my own side-shows. Old men stand by wagering on the outcome of my father's scheme. The winner's reward will be a contrary wind that might never be reversed.

Noble Father, this zest for war needs to be cut up and left bleeding for future generations of auditors, eyeless descendants lifting the curse. I tell you, I own this story. The tale is this: today there will be no curse.

The gods remain uninterested in my secret knowledge; they know my father's plan will not stand. I am willing my own justification. I am streets ahead of everybody. I am specializing in troublemaking and surviving my father.

Any story but mine is a mis-interpretation. Farewell Father. I am off to Crimea. Oh Father, I love you still. I say farewell, Father. I dissent. Farewell Aga aga aga aga mem no no no no no non.

KATHRYN STARBUCK



Thomas's dissent was a classic call for federal judicial restraint, reminiscent of views that were held by Felix Frankfurter and John M. Harlan II a generation earlier, but editorial criticism rained down on him. *The New York Times* called Thomas the "youngest, cruelest justice." Six years later, in his Memphis speech, Thomas cited his *Hudson* dissent and said that "I can't help but wonder if some of my critics can read." Most troubling was the accusation "that I supported the beating of prisoners in that case. Well, one must either be illiterate or fraught with malice to reach that conclusion," he rightly asserted, for "no honest reading can reach such a conclusion."

The originalist view of the Constitution that Thomas expressed in *Hudson* was starkly displayed also in *United States v. Lopez*, a widely noted case in 1995 in which a five-four majority struck down the Gun Free School Zones Act as an unwarranted exercise of Congress's

Commerce Clause power. As in *Hudson*, Thomas's singular focus was on what the constitutional provision at issue was understood to mean at the time of ratification, and his *Lopez* opinion tellingly featured citations to a trio of colonial-era English dictionaries published in 1773, 1789, and 1796.

"The power to regulate 'commerce' can by no means encompass authority over mere gun possession, any more than it empowers the Federal Government to regulate marriage, littering, or cruelty to animals, throughout the 50 states," Thomas wrote. "Our Constitution quite properly leaves such matters to the individual states." Whether Thomas will prove consistent when the constitutionality of the Defense of Marriage Act comes before the Supreme Court remains to be seen, but there can be no doubting the stark view of constitutional authority that he articulates.

"The popular fiction that Thomas [is] nothing more than the hapless dupe of Justice Scalia," says Foskett, betrays "an obvious racist subtext." "Because I am black, it is said that Justice Scalia has to do my work for me," Thomas mockingly observed in 2000. The widespread perception is rooted in the simple truth that "he is really the only justice whose basic approach to the law is the same as mine," Scalia told Foskett. Yet during the court's 2003–2004 term, Scalia and Thomas voted together in only 73 percent of cases, and six other pairs of justices agreed with each other more often than Thomas and Scalia did.

Thomas's independence is obvious and undeniable, and he is sometimes a more principled and radical jurist than his benchmate, as Scalia himself admitted to Foskett. "He does not believe in stare decisis, period," Scalia said of Thomas's attitude toward the presumptive authority of prior decisions. "If a constitutional line of authority is wrong,

he would say let's get it right. I wouldn't do that."

But *Lopez* shows that Thomas is not actually as radical as Scalia says. While Thomas complained that "our case law has drifted far from the original understanding of the Commerce Clause," he recommended "constructing a standard that reflects the text and history of the Commerce Clause without totally rejecting our more recent Commerce Clause jurisprudence." As Thomas explained in a footnote, "Although I might be willing to return to the original understanding, I recognize that many believe it is too late in the day to undertake a fundamental reexamination of the past sixty years. Considerations of stare decisis and reliance interests may convince us that we cannot wipe the slate clean."

THOMAS'S INDIVIDUALITY IS most powerfully revealed in his judicial opinions about race. During his first year on the court, he made a valiant and largely successful effort to ensure that a ruling in the long-running Mississippi higher education desegregation case, *United States v. Fordice*, did not harm the state's historically black public colleges. Challenging both Scalia and O'Connor, Thomas's undeniably pro-black opinion asserted that "it would be ironic, to say the least, if the institutions that sustained blacks during segregation were themselves destroyed in an effort to combat its vestiges."

Two years later, in *Holder v. Hall*, a case that originated in Georgia, Thomas voiced strong opposition to the way the federal Voting Rights Act was being used to create safe-seat majority-black districts. Existing case law that "encourages federal courts to segregate voters in racially designated districts" was "a disastrous misadventure in judicial policymaking," Thomas declared. Not only was it "destroying any need for voters or candidates to build bridges between racial groups or to form voting coalitions," it also embraced "the view that race defines political interest. We have acted on the implicit assumption that members of racial and ethnic groups must all think alike on important matters of public policy and must have their own 'minority preferred' representatives holding seats in elected bodies if they are to be considered represented at all." Such a practice of "segregating the races into political homelands," Thomas said in exceptional-

ly strong words, "should not continue. Not for another Term, not until the next case, not for another day."

Four years later, in his Memphis speech, Thomas asserted that to "define each of us by our race" is "nothing short of a denial of our humanity." Objecting once again to "this notion that our race defines us," Thomas proclaimed that he was standing before his fellow black lawyers "to assert my right to think for myself, to refuse to have my ideas assigned to me as though I was an intellectual slave because I'm black. I come to state that I'm a man, free to think for myself." Perhaps aware of a poll that found that 44 percent of African Americans viewed him negatively and only 32 percent favorably, Thomas told his Memphis audience that "it pains me more deeply than any of you can imagine to be perceived by so many members of my race as doing them harm." And his opinions in race cases certainly do not justify any such perception.

This was most powerfully demonstrated in 1995, by his single most notable statement, in *Missouri v. Jenkins*, a school desegregation case. "It never ceases to amaze me that the courts are so willing to assume that anything that is predominantly black must be inferior," Thomas complained. In the context of public education, that presumption led to the belief "that any school that is black is inferior, and that blacks cannot succeed without the benefit of the company of whites." Rebutting those views, Thomas insisted that "black schools can function as the center and symbol of black communities, and provide examples of independent black leadership, success, and achievement." Likewise, "there is no reason to think that black students cannot learn as well when surrounded by members of their own race as when they are in an integrated environment."

Thomas believes that an ongoing presumption of black inferiority underlies all the race-sensitive policies that America's white majority has misled the majority of black Americans into fervently embracing. " 'Racial isolation' itself," he observed in *Jenkins*, "is not a harm; only state-enforced segregation is. After all, if separation itself is a harm, and if integration therefore is the only way that blacks can receive a proper education, then there must be something inferior about blacks. Under this theory, segregation injures blacks because blacks, when left on their own, cannot

achieve. To my way of thinking, that conclusion is the result of a jurisprudence built upon a theory of black inferiority." For Thomas, the Constitution's command is simple and absolute: "the government may not make distinctions on the basis of race." As he explained in another case, *Adarand Constructors v. Pena*, decided the same day as *Jenkins*, "racial paternalism and its unintended consequences can be as poisonous and pernicious as any other form of discrimination." Affirmative-action plans may be intended to aid African Americans and others, but "these programs stamp minorities with a badge of inferiority," Thomas warned.

THOMAS'S OPINIONS ARE AN indelible tribute to black racial pride, and to his own resolute insistence on being treated as a fully independent individual. Those opinions are fitting indeed for the young undergraduate who volunteered for a Panther-style breakfast program but also dissented from a black-separatist housing program. To call Thomas a black nationalist may provide only modest illumination, given the fluid contours of that label; but there is no mistaking, or denying, that Clarence Thomas is just as African American, and just as comfortable being African American, as was his almost universally praised predecessor, Thurgood Marshall.

In *Missouri v. Jenkins*, Thomas repeated the same time-honored call for judicial restraint that he voiced in *Hudson*: "we must recognize that the judiciary is not omniscient, and that all problems do not require a remedy of constitutional proportions." When such a judicial philosophy is articulated by Scalia, it occasions no surprise and little controversy; but Thomas is different, and in his Memphis speech he correctly explained why. "I have no right to think the way I do because I'm black. Though the ideas and opinions themselves are not necessarily illegitimate if held by non-black individuals, they, and the person enunciating them, are illegitimate if that person happens to be black." Thomas believes he is the victim of a racist double-standard, and he is right.

Today Clarence Thomas is just fifty-six years old. There is a very good chance that he will serve on the high court—which currently includes an eighty-four-year-old senior justice and an eighty-year-old chief justice and two other

justices over seventy—for many more years. Over the past thirteen years he has emerged as a uniquely African American judicial conservative. Perhaps before another thirteen years pass, his right to advance his opinions will no longer be challenged on simply racial grounds. One need not endorse his stark judicial

philosophy in order to insist that true equality means that any man or woman, of whatever racial or ethnic heritage, can just as rightly articulate those views as can Euro-American white males. That is Clarence Thomas's challenge to America, and there is little doubt that in this, too, he will eventually prevail. ■

poetry, and recording the trials of life under the new regime in her Moscow notebooks. "I didn't write down the most important thing," she remarked in *Attic Life*, a prose account of her impoverished, physically grueling life in post-revolutionary Moscow: "the gaiety, the keenness of thought, the bursts of joy at the slightest success, the passionate directedness of my entire being—all the walls are covered with lines of poems and NB! for notebooks." Tsvetaeva was evolving into the formidably original poet whom most Russians would place squarely in the great twentieth-century quartet—at the very foundation of the language—along with Pasternak, Mandelstam, and Akhmatova. Tsvetaeva was on the cusp of some of her best poetry, which fermented amid social upheaval, and came to fruition in the relative calm of emigration after 1922.

Jamey Gambrell Hell

THE DEATH OF A POET:
THE LAST DAYS OF
MARINA TSVETAEVA

By Irma Kudrova

Translated by Mary Ann Szporluk
(*Overlook*, 232 pp., \$29.95)

IN MOSCOW EARLIER THIS YEAR I attended the premiere of *The Passion of Marina*, a documentary, directed by Andrei Osipov, on the life of Russian poet Marina Tsvetaeva, who was born in 1892 and died by her own hand in 1941. The standing-room-only crowd in the huge auditorium of the Cinematographer's Union was reverent; old and young had come to remember the country's betrayal of one of its most original and brilliant poets. The collapse of the Soviet Union was not accompanied by any expiation of collective sin: there was no Nuremberg, no lustration, no Truth and Justice Commission. In the absence of such public reckonings, films such as this one, and books such as Irma Kudrova's *The Death of a Poet: The Last Days of Marina Tsvetaeva*, have assumed this documentary and cathartic function, at least for those in Russia who still care about such things.

The book and the film are equally intense, each in its own way. *The Passion of Marina* compressed the poet's life into one hour, interweaving photographs and rare film footage from the time, voiced over with the poet's own words, culled from her writings and correspondence. The images included film of her father

Ivan Tsvetaev, founder of what is now Moscow's Pushkin Museum of Fine Arts, being greeted by Nicholas II at the opening ceremonies in 1913. Scenes of well-dressed upper-class families like Tsvetaeva's promenading along Moscow's boulevards were followed by portraits of the newly wed poet and her husband, the writer Sergei Efron, still adolescents, in bohemian dress at the Crimean home of the poet Max Voloshin (where Tsvetaeva met Osip Mandelstam, with whom she had a brief affair in 1916), and the huge bright eyes of their first daughter, Ariadna, known as Alya.

Her father's museum and her mother's tuberculosis were the determining poles of Tsvetaeva's childhood, as the family traveled about Europe in search of another exhibit or a better sanatorium, and the future poet absorbed French and German culture and literature. Her husband and his revolutionary politics were the determining factors in the rest of her life. Tsvetaeva herself was deeply apolitical, preferring the truth to all ideology; but her loyalty ran as deep as her aversion to politics. In *The Passion of Marina*, scenes of a once-serene city seized by revolution and starvation were followed by photographs of the family house where Tsvetaeva, herded by Soviet housing policy to a single attic room, lived with her two children, cannibalizing the banisters and rafters for fire and cooking wood. There she waited nearly four years for news of Efron, who had been evacuated with the White Army, and in 1920 received the news of her younger daughter's death in a children's home that had held the promise of better provisions.

There, too, she wrote prolifically, producing an extraordinary amount of

HAD THOSE WALLS BEEN ABLE to speak the words written on them all at once, the result would have been a terrible cacophony of contemporary voices—gentry, commissar, worker, soldier, peasant, priest—mixed with the ancient cadences of a mythic, pre-Christian Russia preserved in folk tales, rhymes, and epic poetry. All these intonations, inflections, rhythms, and tempos—and the living realities that corresponded to them—were eventually given voice in Tsvetaeva's work. She wrote poetry and prose that was attached inseparably to the structure of the Russian language, and that could vault from the mundane to the sublime in the space of an iamb.

Using this multitude of voices, Osipov's film moved swiftly through the years of emigration: from reunion with Sergei in Berlin in 1922, through Prague and the birth of their son Georgy (known as Mur), constant material hardship, lovers real and epistolary, to 1937 in Paris and the beginning of the end—the end that Kudrova's book investigates in minute detail. First Alya, and then Sergei, zealously enamored of the great socialist experiment, returned to what was now Soviet Russia—even Mur, who had never set foot on Russian soil, longed to "return." Efron had undergone an evolution from anti-Bolshevik cadet to NKVD recruiting agent, and had been implicated—wrongly, according to Kudrova—in the murder of a Soviet agent turned party critic named Ignace Reiss. He was forced to flee France to escape arrest. Tsvetaeva

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