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Can She Do That?

Lauren Shapiro†

On December 1, 2003, Gertrude Ederle, the first woman to swim the English Channel, was eulogized. I heard the story on NPR. On August 6, 1926, wearing a two-piece bathing suit (very racy at the time) that her sister had made for the occasion, Gertrude jumped into the sixty-one-degree (in other words, cold) water. Her father was alongside her in a boat and managed to feed her a chicken leg during the fourteen-hour swim. To keep her spiritually buoyant, they brought along a phonograph and her favorite hits of the day: “Let Me Call You Sweetheart” and “Yes, We Have No Bananas.” Things went swimmingly for some time, but then the currents became ferocious. She was being forced off course—in fact, she was washed three extra miles out of her way. At this critical time, her father leaned over the boat with these inspirational words:

“Quit! Quit! Get out of the water!”

She replied: “No! No! What for?” Not “I have a dream.” Just “What for?”

She then broke the men’s record and set the women’s record.

As I listened to the radio, I was stuffing my bag with music for the day’s work as a dance accompanist, and motion papers for the lunch break. I was asking myself why I did not just quit and tell the judge that I had done whatever it was she seemed so determined to make me say I had done and now let us have the goddam ACD so I can finally go home. It seemed so easy. In the insane asylum of Bronx Family Court, it seemed so sane.

I needed Gertrude Ederle to answer that question for me. And she did. She was right. The only answer is “What for?” Seventy-seven years later, Gertrude Ederle keeps me going.

I, too, have been swimming against the tide for the past five years, *pro se* (meaning I cannot afford a lawyer) in a custody/support/neglect case in Bronx Family Court.

I rely on the kindness of attorneys—friends and strangers—to keep me from drowning in what is optimistically referred to as the “legal system.” They have all requested anonymity; otherwise, they will “never win another case.”

Conversations with The Caterpillar often went like this:

“Can she do that?”

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“She can do whatever she wants, she’s the judge.”

“What can I do?”

“You could file a motion demanding due process.”

“And then what?”

“She’ll deny it.”

I confessed to Blackbird Singing in the Dead of Night that when I hear radio reports of fatal traffic accident reports, I find myself reflecting, “Maybe it’s the judge.” Blackbird offered comfort, confessing that she also has daydreams of various atrocious deaths that might befall family court judges. “But,” she said brightly, “it goes away when the case is over. You’ll see.”

Double Agent railed, “The inmates are running the institution. These judges are the closest things we have in this country to a monarchy. I mean, ‘Your honor’—Doesn’t that sound a lot like ‘Your highness’? You know, they say power corrupts, and absolute power corrupts absolutely. And I mean, she is just evil. Evil!” He paused reflectively and then said, “Of course, maybe she’s just plain stupid.”

I Can Say No More said, “If you were my client, I’d advise you to go to the Appellate Division, but since you’re not my client, I would never say that.”

I asked, “How do you spell ‘interlocutory’?”

I gave my daughter the number to the university library where I was going to be doing research on LexisNexis. She responded, “Okay, so if I need you, I’ll say, ‘Please get the woman with the out-of-date flowered skirt and her bra strap sticking out.’”

Instead of “Yes, We Have No Bananas,” I popped “Electric Avenue” into the car and sang along, adapting it: “Oh, no, we gotta rock down to Madison Avenue, and then we’ll take it higher!”

When I got there, I said to myself, “Now that’s a courthouse! Pillars, a classy employee cafeteria . . .” I asked the maître d’ to direct me to the office of LH.

“Who is LH?”

“The Court attorney.”

“Well, then, she’s probably in the courthouse across the street.”

“How,” I asked myself, “are you going to represent yourself in the Appellate Division when you can’t tell a restaurant from a courthouse?” Waves of despair. I wanted to go home. I wanted to play piano. I wanted anything but this. But what for? Not “with liberty and justice for all.” Just “what for?”

I won that application.

I wonder if a *pro se* litigant winning *anything* qualifies for some legal Special Olympics? Perhaps the prize is the legal equivalent of the George M. statue in Times Square, a statue in front of the Bronx Family Court of a horrified woman with an out-of-date flowered skirt and her bra strap sticking out, a dictionary opened to “interlocutory,” and a commemorative plaque reading, “Can She Do That?”

As the case continues, I am often knocked over and thrown off course by

tidal waves of absolute power, absolute stupidity, and greed. I am grateful to be on board a boat with people who, even when I will not take their advice and “quit,” either hand me a chicken leg or point out that my bra strap is sticking out.

I just have to make my record.