

Clarence Thomas, Alison Stewart, and the outrageous hypocrisy of WNYC



Brian Lehrer

by Lev Tsitrin

The Russians call the state of being utterly outraged “getting to the white incandescence.” The saying apparently goes back to the pre-industrial times when smithies were as common as gas stations are nowadays – and were as necessary: horses needed to be shod, and plows sharpened. Customers watched how a hunk of iron placed in the forge first glowed red, than, white – and observed that there is only so much heat that a person can take, too, before going ballistic.

This is exactly how I felt recently when I heard that my local station, WNYC would discuss the frustration of one of its hosts, Alison Stewart, upon seeing the message of her book *“First Class: The Legacy of Dunbar, America’s First Black Public High School”* that discusses the excellence and path-breaking success of graduates from this all-black school being

perverted by Justice Thomas who quoted from it in a footnote to his recent Supreme Court opinion that invalidated affirmative action – and I called into the show to contribute to the discussion.

What caught my ear was not the mention of affirmative action – but the fact that WNYC, at long last, decided that it is wrong for a judge to pervert the facts that he adjudicates. I have a very long history of trying to convince the station to talk about this very subject, given that in my own, [free speech/property rights case](#) federal judges concocted in their decisions their own winning argument for the government when the government failed to produce one – and manufactured a losing argument for me despite my lawyer's winning argument. So far, WNYC adamantly refused to talk about it – to the point of not only not taking my calls, but of blocking my phone numbers and my email addresses so I wouldn't bother them with what to them is, apparently, nonsense.

And all of the sudden, I turn on the radio and – lo and behold! – I hear that two WNYC journalists, Brian Lehrer and Alison Stewart, think that judges' perversion of the argument is indeed wrong, and deserves a segment on the show! What a quantum leap forward! Delighted, I called into the station to put in my two cents, using the cell phone that has not been blocked. The screener took my name, and I heard how he types up my message. I waited breathlessly. To make sure the host, Brian Lehrer, did not miss my call, I tweeted at him, repeating my message yet again. I tweeted again when he started taking listener calls, to draw attention that I'm waiting. But – after a few listeners talked of how indispensable the affirmative action is, of how wrong it is to assume from the book's story that blacks can flourish just on their own, and of what a bad person (if not a traitor to the race) Clarence Thomas is, the segment is over. My call about judicial fraud is not taken. [The segment](#), ostensibly dedicated to judge's perversion of the argument lasted half an hour, yet

not one minute was found to discuss the actual judicial perversion of the argument! Why wonder that this got my ire to the “white incandescence”?

The hypocrisy here is outrageous. Alison Stewart is, needless to say, the station’s employee and can pull the strings. I can imagine her conversation with Brian Lehrer over the water-cooler: “Can you believe what happened, Brian? Justice Thomas completely perverted in his footnote what I said in my book. Isn’t it terrible? Let’s do a segment on this! Not only will we bash that Thomas guy, but my book will get a bit of an extra push!” And I hear Brian’s reply: “This is indeed terrible. of course, Alison!”

What a contrast with the reaction I get when I tried to tell that same Brian that I sued a bunch of federal judges for fraud for their replacement of parties’ argument with the bogus argument of judges’ own concoction, and they defended themselves with the self-given in *Pierson v Ray* right to act from the bench “maliciously and corruptly”! How different is the response: not “this is terrible, let’s do a segment” but – “get lost!”

But how is this “not terrible?” Why does the very same judicial action result in such different journalistic reaction – a half-hour segment for Alison Stewart versus nothing for me – though I also have a book to promote that is at the very least as important as Alison’s – if not far more so?

There is so much hypocrisy and so much double-standard here. For one, WNYC bills itself as a “public” station (all complete with raising funds from the public four times a year, and getting funding from the government too, I am sure) – and yet the public is kept at arms length from editorial decision-making; it is clearly based on favoritism rather than the importance of the issue. This hypocrisy – of the “some animals are more equal than other” kind, of the “this is for me but not for thee” kind, was on full display – Alison Stewart has a

hand at WNYC, and gets her say. I am an outsider with an unwelcome message – and I get a contemptuous kick.

Still, it is now proven beyond the shadow of doubt that what I keep saying about judges is newsworthy, that I am not some kind of a kook Brian Lehrer takes me for – the making of this segment proves that judges' perversion of the argument is definitely a journalistic story: Brian Lehrer treated it as such. The question is, how to make it not just a story of Alison Stewart and Justice Thomas, but also of Lev Tsitrin and Judges Lettow and Vitaliano, not just a story of perversion of the message of a book in a judge's footnote, but a story of judges giving themselves the bizarre right to act from the bench "maliciously and corruptly".

WNYC agrees to the former – but not to the latter, and this hypocrisy outrages me. I guess the only thing I can do is to persist and keep going – all the more that I now have an incontrovertible proof that what I am trying to say (and what WNYC is hypocritically trying to suppress) is hugely important and definitely news-worthy; it is certainly worth at least a half-hour segment on WNYC's Brian Lehrer show.

And I wonder why Brian Lehrer does not treat reporting this just as part of his, journalistic business – the business of news-gathering, the business of broadcasting, the business of informing the public of how the government works (or for that matter, doesn't work), why he made it personal, letting Alison Stewart speak, but not me. This what got me to the state of "the white incandescence." How else can one react to such blatant, outrageous hypocrisy of the presumably "public" radio station?

Lev Tsitrin is the author of ["Why Do Judges Act as Lawyers?: A Guide to What's Wrong with American Law"](#)