

Mary Jane Theis 2010 – Present

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Illinois Supreme Court Justice Mary Jane Theis succeeded retired Justice Thomas R.

Fitzgerald in 2010, becoming the fourth woman to serve on the high court. The only child of



Cook County Circuit Court Judge Kenneth R. Wendt

and his wife, Eleanore, Mary Jane was born in Chicago

on February 27, 1949. “When I was in high school,”

she remembered, “I would go to his courtroom

whenever I had an opportunity and watch the

proceedings. It was a time when the law was changing

very rapidly. He heard a lot of narcotics cases, and it

was a time when issues about the Fourth Amendment

were not only on the front pages of the newspapers,

but also were important cases in the United States Supreme Court, and it seemed so compelling and exciting.”¹

After graduation from Loyola University in 1971, Theis pursued a law degree from the University of San Francisco. She later said that an internship at the Marin County, California, public defender’s office helped shaped her career. Returning to Chicago, she served as an assistant Cook County public defender until 1983, when she began her judicial career as a Cook County associate judge and in 1988 won election as a circuit judge. In 1993, she was assigned to the First District Appellate Court and was elected to the position in 1994, serving for seventeen

years.² Marrying criminal defense attorney John T. Theis, they became the parents of a son and a daughter.

In 2010, the Supreme Court appointed Mary Jane Theis to fill the Fitzgerald vacancy, effective October 26, 2010 through December 3, 2012. “I am humbled by the confidence the Illinois Supreme Court has placed in me,” she told the Illinois State Bar Association at the time. “The fact is I love being a judge very much. I love the intellectual part of it. But most importantly, I have an opportunity to shape the law that affects the lives of the People of Illinois.”³

In February 2012, Theis wrote the opinion in *People v. Wrice*, regarding the 1983 conviction of Stanley Wrice for the abduction, rape, and deviate sexual assault of a Chicago woman.⁴ Wrice’s attorneys claimed that after his arrest he had been severely beaten into a confession by two Chicago detectives, both of whom worked under Jon Burge, a police lieutenant who was promoted to commander before being suspended in 1991 and fired in 1993 for systematically torturing black suspects. At the trial, prosecutors introduced Wrice’s alleged confession, and, although no physical evidence linked him to the crime, he was convicted by a jury and spent the next thirty-one years in prison.

In 2010, following special-prosecutor investigations of beatings by Chicago police, the Illinois Appellate Court ordered a hearing on Wrice’s torture claim. Prosecutors appealed to the Supreme Court. Theis wrote the unanimous opinion, which held that “use of a defendant’s physically coerced confession as substantive evidence of guilt is never harmless error. The defendant has satisfied the cause-and-prejudice test for successive postconviction petitions.” The ensuing hearing culminated in Wrice’s exoneration. At the time of his release from prison, the

cases of twenty-five prisoners convicted in part from coerced confessions obtained by Burge and his subordinates were pending review by the Circuit Court, resulting from the Supreme Court decision.⁵

In March 2012, Theis prevailed in a four-candidate Democratic primary race, aided by an endorsement from the Cook County Democratic Party. In the November election, she easily defeated Cook County circuit judge James G. Riley by about 50 percentage points, earning a full ten-year Supreme Court term. She remarked at the time that the seven justices share a healthy respect and ignore partisan divide. “There are those who like to pigeonhole people and say we’re elected as Democrats and Republicans and, therefore, we must think a certain way,” Theis said. “But if you really look at our cases, that’s not what’s happening at all. I’m proud of that non-partisan sense in our court.”⁶

In 2014, Theis dissented from the Court’s opinion in *People v. Patterson*, which addressed the constitutionality of the automatic transfer provision of the Juvenile Court Act.⁷ The majority upheld that statute, but Theis believed that it violated the eighth amendment of the United States Constitution and the proportionate penalties clause of the Illinois Constitution. At the end of her strong and lengthy argument, Theis concluded that “[o]ur state, home of the country’s first juvenile court and once a leader in juvenile justice reform, should not be a place where we boast of locking up juveniles and throwing away the key. Illinois should be a place where youth matters, and we work to tailor punishment to fit the offense and the offender, as required by our federal and state constitutions. For juveniles, that starts with abolishing automatic transfers.” Theis’ words proved prescient. The following year, the General Assembly

amended the statute, abolishing automatic transfers and restoring trial court discretion in all transfer rulings.

In 2016, Theis delivered the unanimous 5-0 ruling in *Mary J. Jones et al. v. Municipal Employees' Annuity and Benefit Fund of Chicago*, which struck down a 2014 state law intended to overhaul two of the city's financially struggling pension systems.⁸ The legislation, supported by Chicago Mayor Rahm Emanuel, scaled back retirement benefits, required city workers and laborers to increase their retirement contributions in phases over five years, and lowered annual cost-of-living increases for retired workers. In court filings, attorneys for the City contended that the pension systems, not the city, had responsibility for paying out benefits to retirees, and that the municipal fund had just 37 percent of the amount needed to pay future retirement benefits, while the fund for laborers held slightly more than 50 percent of the needed money. "The Illinois Constitution mandates that members of the Funds have 'a legally enforceable right to receive the benefits they have been promised'—not merely to receive whatever happens to remain in the Funds," Theis wrote. "The General Assembly and the City have been on notice since the ratification of the 1970 Constitution that the benefits of membership must be paid in full."

In her 17 years on the Appellate Court, Justice Theis served as a Presiding Judge. She was Committee Chair of both the Committee on Judicial Education and the Committee on Judicial Conduct of the Illinois Judicial Conference, and a member of the Supreme Court Rules Committee. She is currently the Supreme Court liaison to the Illinois Judicial College. Justice Theis was President of the Appellate Lawyers Association and the Illinois Judges Association, as well as President and founding member of the Illinois Judges Foundation. She has been a member of the Board of Governors of the Illinois State Bar Association and the Board of

Managers of the Chicago Bar Association and is a member of the Women's Bar Association of Illinois.

Justice Theis has taught at numerous judicial education programs, as well as conferences and seminars for the ISBA and CBA, and at Loyola University School of Law, Northwestern University School of Law, and the John Marshall Law School. She has received various awards, including the Lifetime Achievement Award from the Illinois Judges Association, Catholic Lawyer of the Year from the Catholic Lawyers Guild, Celtic Lawyer of the Year from the Celtic Lawyers Society of Chicago, the Mary Heftel Hooten Award from the WBAI, and the Access to Justice Award from the ISBA. Justice Theis is the recipient of the American Constitution Society Legal Legend - Honor from the Chicago Lawyer Chapter.

¹ *ISBA Bench and Bar* 42 (August 2011).

² *Chicago Daily Law Bulletin*, 15 July 2011, pp. 1, 22.

³ *ISBA Bench and Bar* 42 (August 2011).

⁴ *People v. Wrice*, 2012 IL 111860.

⁵ law.umich.edu/special/exoneration/pages/casedetail.aspx?caseid=4323.

⁶ *Chicago Daily Law Bulletin*, 7 November 2012, pp. 1, 24.

⁷ *People v. Patterson*, 2014 IL 115102.

⁸ *Jones v. Municipal Employees' Annuity & Benefit Fund*, 2016 IL 119618; chicagotribune.com/news/local/politics/ct-chicago-pension-law-ruling.