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## **SIDEWAYS - WINNER! BEST PICTURE**

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## **Shift Toward Skepticism for Civil Rights Panel**

December 10, 2004  
 By **RANDAL C. ARCHIBOLD**

**KANSAS CITY, Mo., Dec. 9** - It is not that the new chairman of the **United States Commission on Civil Rights** doubts racial discrimination still exists, as his detractors have charged, it is that he is not quick to see it. He is not sure he has personally experienced it.

"I just assume somewhere in my life some knucklehead has looked at me and my brown self and said that they have given me less or denied me an opportunity," said the chairman, **Gerald A. Reynolds**, 41, an African-American lawyer. "But the bottom line is, and my wife will attest to this, I am so insensitive that I probably didn't notice."

It is an outlook that could not be more different from that of his predecessor, **Mary Frances Berry**, whom President Bush declined to reappoint. Instead the president chose **Mr. Reynolds**, a fellow conservative who once described affirmative action as a "big lie," as chairman of the 47-year-old advisory panel with a storied history of pushing the government to combat discrimination.

**Ms. Berry**, 66, made a reputation in her 25 years on the commission for haranguing presidents for not doing enough to recognize what she considered the persistent vestiges of discrimination. She fired off a 166-page report last week

as a parting shot that criticized the Bush administration for fomenting a divided nation.

But Mr. Reynolds, a bookish veteran of conservative policy groups, foresees an entirely different approach, one his associates herald as an important generational and philosophical shift for an agency they see as outmoded and nearly irrelevant in the post-civil-rights-movement era.

"It is very useful to have somebody who can look at the issues confronting racial minorities with the perspective of 2004 and not 1964 or 1954," said Roger Clegg, a friend and former associate at the Center for Equal Opportunity, a Washington policy group highly critical of affirmative action.

Mr. Reynolds, choosing his words carefully, said he would consult the rest of the panel before offering details about his goals for the commission. But he declared a high priority would be investigating ways to close the disparity in education achievement among whites and minorities.

He is a big fan of the No Child Left Behind law and ardently backs Mr. Bush's belief that a "soft bigotry of low expectations" - far more than discrimination - is what is keeping black and Hispanic students behind whites and Asians.

Mr. Reynolds, who said he had spoken only to White House aides and not to Mr. Bush about his appointment, is likely to gain a receptive ear among fellow commissioners; now six of the eight, including a Virginia lawyer, Ashley L. Taylor, whom Mr. Bush appointed on Monday along with Mr. Reynolds to a six-year term, have conservative leanings.

Among the most influential members, Mr. Reynolds said, would be a friend, Abigail Thernstrom, whom Mr. Bush just named vice chairwoman. Ms. Thernstrom and her husband, Stephan, wrote "America in Black and White: One Nation, Indivisible," (Simon & Schuster, 1997), a book that called racial preferences divisive and one that Mr. Reynolds singled out as an influence on him.

Though he took pains to say racial discrimination exists, he also said it is surmountable with fortitude and made no bones about his belief that traditional civil rights groups - which he has sharply criticized in the past - overstate the problem. He plans a more skeptical approach.

"Somebody can look at disparities in income and home ownership and conclude that it is due to discrimination, but before you can do that you have to perform an investigation because there are other factors that could explain these disparities," he said. "The disparities could be the result of discrimination or it could be the result of something else that has no relation to discriminatory conduct."

Some longtime civil rights advocates cringe at Mr. Reynolds's arrival, noting his writings against affirmative action - he opposes racial preferences - and what they say

was his unenthusiastic enforcement of civil rights laws when he was assistant secretary of education in charge of the Office of Civil Rights at the Education Department a couple of years ago. "His appointment effectively brings to an end the Civil Rights Commission," said Wade Henderson, the executive director of the Leadership Conference on Civil Rights, a coalition of groups. "His appointment is less about civil rights oversight than remaking the commission in the image of the administration."

Mr. Reynolds, a regulatory lawyer for an energy company in Kansas City, will become the face of an agency that tries to address some of the nation's most pressing problems, including voting rights in the board's early days and voting procedures in recent years. It issues reports and recommendations but has no power to enact changes on its own.

Friends and former associates describe Mr. Reynolds as easygoing and chatty about public policy, a wide range of books and jazz. He does not have cable TV. His literary heroes include H. L. Mencken, Zora Neale Hurston and the Rev. Dr. Martin Luther King Jr. and he said he was so taken by Ralph Ellison, the famed Harlem author of "Invisible Man," that his 5-year-old son is named Ellison.

"He used to pad around the office in his socks, which seemed very un-Washington," said Linda Chavez, who brought Mr. Reynolds to his first policy group in the mid-1990's, the Center for Equal Opportunity.

"He was somebody who was insulted by the notion blacks somehow needed preferences," Ms. Chavez said.

Mr. Reynolds, however, does not deny that in college and the corporate law world he may have been an unintended beneficiary. "It's damn near impossible not to have been," he said. "There is no box you can check to deny these preferences, and there is tremendous pressure on managers to be judged by their numbers."

Mr. Reynolds grew up in the South Bronx and Flushing, Queens, the son of a New York City policeman and a dental hygienist. He attended York College of the City University of New York, falling under the sway of an intellectually demanding philosophy professor, Barry Gross, who belonged to an organization of academics battling political correctness on campuses.

Mr. Reynolds graduated from Boston University School of Law and soon after, with the help of the Thernstroms, moved on to the world of conservative groups, working first at the Center for Equal Opportunity and then as president of the Center for New Black Leadership.

"I got paid to read social science literature out there," he said. "It was almost like stealing."

He wrote extensively on race and discrimination, calling affirmative action in one 1997 article a "big lie" and a "corrupt system of preferences, set-asides and quotas that

discriminate in favor of certain groups at the expense of others."

Drawn by what he called an intellectual challenge and better pay, he moved to Kansas City in 1997 to work as a regulatory lawyer for the local electric company.

He took a detour in 2002, when Mr. Bush nominated him to head the Office of Civil Rights at the Education Department. The president used his power to appoint Mr. Reynolds during a Congressional recess after a contentious Senate committee hearing that cast doubt on whether he would be approved. Senate Democrats, including Edward M. Kennedy of Massachusetts, grilled him on his opposition to affirmative action; his commitment to upholding the law, known as Title IX, requiring educational institutions to treat men's and women's athletic programs similarly; and what they considered thin educational policy experience.

Mr. Reynolds left the Education Department in 2003 and eventually landed back in Kansas City, where he is now an assistant general counsel at Great Plains Energy. He lives here with his wife, Renee, a former research chemist who is homeschooling two of their children, Emma Marie, 10, and Ellison, 5. He has a stepson, Ghani, 27.

Mr. Reynolds said he did not relish the limelight and offered an olive branch of sorts to the civil rights groups he has criticized, though he promised not to back down from his principles.

"I've found chinks in my arguments and I would appreciate some help from traditional civil rights groups, if they would offer thoughtful, constructive criticism," he said. "That would help me. But that's a rare exchange. Unfortunately, it often becomes a food fight."

<http://www.nytimes.com/2004/12/10/national/10reynolds.html?ex=1103684639&ei=1&en=5d870c5e13a12fc9>

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