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A LAWYER'S EXPERIENCE IN K-12 LAW-RELATED EDUCATION: LESSONS AND OPPORTUNITIES

DAVID A. SCOTT*

I.

INTRODUCTION

This article explains one attorney's path, my path, from law school to a successful career in K-12 law-related education. I have several objectives in recounting my story. First, law students and working professionals in the legal field should consider how they can support the civic mission of America's schools by service to their local K-12 community, or perhaps by joining the ranks of lawyers teaching full time in public or private K-12 schools. Second, I hope to demonstrate that the rewards can be great both personally and professionally as the expert knowledge of a legal education can enrich the learning of K-12 students and help prepare them as active, informed, engaged and responsible citizens. The legal profession depends upon a public that values essential constitutional principles, supports the essential work of lawyers, and recognizes the role of the judiciary as a coequal branch of our government in protecting and preserving our liberties. In this article, I will tell the story of how and why I entered this particular career niche, provide insight into how I have dedicated my entire adult career to this work, and discuss how it has positively impacted students in my community who have matured to become citizens of our nation. I urge those who share a love of the law and liberty to consider my story and determine whether they, too, might find channels through which to support this civic mission, either through direct service to K-12 schools or through broader advocacy to encourage policy reforms that prioritize high quality civic education in all schools.

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II.

MY STORY

If you are reading this, I would imagine that you are in some way connected to an undergraduate institution, a law school, or are a working professional in the legal field. My path out of law school was unique and unexpected. After attempting to start my own law practice, I found myself dividing my time between the world of K-12 education and a fledgling law practice. In short time, my full time and attention were drawn to the K-12 world. Now, after 24 years of experience teaching in the public schools, I would not trade a moment of the time I have enjoyed in the public schools. My time in education has kept me connected to the legal community and has afforded me the opportunity to continue to teach about the law, the legal system, our constitution, and the essential work of lawyers in preserving and protecting our democracy.

We all tend to find a path that is heavily influenced by our experiences. My path into K-12 education, and specifically to becoming a Law and Civics teacher, was heavily influenced by my parents. My mother is a retired first and second grade teacher, teaching in the same Long Island school district for over 30 years. When we would visit the local supermarket, I was proud of the way families with current and former students of hers would stop to talk and share stories of successes and challenges. These conversations always ended in a hug and well wishes. I could see the way my mother as an educator was touching the future. These experiences made me want to be a teacher. I left college with a mostly complete teaching credential, all but my student teaching. The twenty-something year old me looked at this “teaching credential” as a sort of insurance policy - something to fall back on if the dream of having my own big law firm did not work out.

The love of the law came from my father. I may have had the original stay at home dad. He had retired from his first career in real estate when I was a teenager. He always preached the value of education, and upon reflection, I think he wanted to lead by example, so in his late 50s he enrolled in law school. Dinner conversations revolved around topics that fascinated me. I learned about Terry stops and the rule against perpetuities. The seeds were planted for my later entry into law school and a lifelong love of the law.

I loved law school. My most valued possession was my Black's Law Dictionary, a gift from my father that I carried with me with religious fervor. Whenever I encountered a term that I could not discuss with one hundred percent certainty as to its meaning I looked it

up. I had outstanding professors in Law School. One of my favorites, Professor Beverly McQuery-Smith, is a voice that is with me every day in my classroom. I have my students read in the same manner Professor McQuery-Smith taught me to read a statute – word by word, comma by comma, semi-colon by semi-colon, sentence by sentence, and so forth. Long before the new Common Core curriculum called for “close readings,” I was preaching the power of every word and punctuation mark to be found in a sentence to my students and encouraging them to think critically about what they read and what they write.

While most law school graduates recall completing their last law school exam as an occasion of great joy, for me I found it a day of great sadness. I loved every minute of law school. I loved the late nights reading and briefing cases, the Socratic instructional methodology, the endless hours with various study groups, and the hunt for the elusive volume of any given reporter containing that one case I so desperately needed. My sadness at leaving law school was only compounded by the stress associated with a job hunt that was not very fruitful. I decided to go it on my own but realized necessities like paying the bills and health insurance required some degree of meaningful “part-time” employment. That need was filled by an appointment by the New York City Board of Education in the fall of 1992, as a Social Studies teacher in the South Bronx. I envisioned myself as a “Happy Warrior” meeting the challenge of teaching students in one of New York City’s most impoverished neighborhoods. I spent five years teaching (and as a dean) at that high school. For me, this may have been my most important and defining experiential learning. I learned a lot about myself, my students, and what it took to make teaching and learning relevant to young people. I worked with students that faced some of life’s toughest obstacles. I marveled at their resiliency in the face of poverty, violence, and limited avenues for opportunity.

It was during these five years that I encountered something that would change the course of my career. At the conclusion of my first school year, I was a terrible teacher. My attitude was great but I had not found a way to connect my interests and passions to something that was going to connect with my students. That all changed in the spring of my first year teaching when my principal handed me a flyer for a “Law-Related Education Summer Institute” for New York teachers. This institute immediately peaked my interest. The fact that the institute was conveniently located on Long Island at Northport High School, a reasonable commuting distance from my home, made the opportunity even more attractive. With the encouragement of my

principal, I eagerly enrolled. The institute was hosted by Project PATCH, the Law-Related Education Program of the Northport - East Northport School District, and the Law, Youth and Citizenship Program of the New York State Bar Association.¹

III.

INTEGRATING OUT-OF-CLASSROOM EXPERIENCES INTO THE HIGH SCHOOL CURRICULUM

For seven years, starting with my first PATCH / LYC Summer Institute in the summer of 1993, I dutifully and cheerfully returned for my annual dose of Law-Related professional development. I grabbed every lesson and resource I could carry and carefully planned for my return to the classroom in the fall where I would use these new lessons and instructional techniques with my students. During this period, I left the high school in the Bronx to accept a position with Nassau County BOCES.² My position there was very interesting. I was hired to teach a career and technical education course in Police Science as well as develop a new program called New Visions Criminal Justice.³ Most of my time with BOCES was dedicated to teaching the Police Science course and then developing and implementing New Visions.

These programs were heavily based in experiential learning. With the Police Science course, many of my students were “at risk” in that they did not connect in traditional classrooms. To gain their interest the curriculum had to be real, hands-on and meaningful to their career aspirations in law enforcement. I partnered with another Police Science teacher at BOCES, Joseph McGuire, a retired federal law enforcement agent who had become a teacher. He shared resources, lessons and project ideas, one of which was to develop crime scenes in my classroom. My Police Science students loved the hands-on and real work that they had to do while processing their crime scenes. As their teacher, I enjoyed the opportunities to connect lessons in Fourth Amendment search and seizure, rules of evidence, teamwork, legal writing and record keeping to the work they were doing in their crime scenes. For me, as a teacher, this was an experi-

¹ NEW YORK STATE BAR ASSOCIATION, *Law, Youth & Citizenship Programs*, www.lycny.org (last visited Sept. 20, 2016).

² BOCES, the Board of Cooperative Educational Services, established in counties throughout the Long Island region, partners with school districts to provide quality educational and support services to students of all ages and abilities. For additional information about BOCES programs, see www.nassauboces.org (last visited June 13, 2016).

³ For the current version of the Police Science course, see *Course Catalog*, available at www.nassauboces.org/barrytech (last visited June 14, 2016).

ence that would have great significance at a later time, when I served as one of the lead coordinators of the Crime Scene Investigation Challenge.⁴

The New Visions course was a truly unique experiential learning opportunity for high school students. My job was to teach high school students a college level criminal justice curriculum, plus 12th grade English, with the students simultaneously immersed in internships with various agencies and organizations involved within the criminal justice system. I taught this class in the squad room of the Community Oriented Policing Unit of the Hempstead Village Police Department located in a former Armory that had belonged to New York State. Home to the Nassau County District Court, Hempstead Village is a vibrant and active community with all the energy of a small city condensed into 3.68 square miles. According to the 2010 census, Hempstead Village is the most populous village in New York State. It was an extraordinary place for my students to learn. Internships included the Nassau County District Attorney's office, a judge's chambers, the Sheriff's office, Nassau TASC (Treatment Alternatives to Street Crime), and of course, "ride-alongs" with the officers of the Hempstead Village Police Department. My students had a world opened to them that they would never have seen. This intense experiential education had profound impacts on many of my students. One of my proudest moments as a teacher was being invited to the family celebration of one of my New Visions students after he was sworn in as a New York City Police Officer.

One of the essential lessons to be learned from my experience at Nassau BOCES was the importance of community partnerships. When professionals, real-life practitioners, connect with students something very special happens. Career aspirations become more relevant, meaningful, immediate and attainable when students are able to connect with working professionals in the field. In K-12 law-related classrooms, one of the most common goals is to connect the classroom to people working in the legal profession. The more exposure students have to professionals working in the legal field, the more students feel connected to the legal community. Organizations like Street Law provide great resources for professionals to use in K-12 classrooms.⁵ Bar associations have wonderful lawyer in the classroom

⁴ The CSI Challenge Program involved an annual Forensic Science and Criminal Investigations competition in which students processed a crime scene, interviewed and interrogated witnesses, and completed numerous "crime lab" procedures under the watchful eye of expert law enforcement evaluators.

⁵ See www.streetlaw.org/en/programs (last visited June 14, 2016). In addition to their teacher training materials and interactive classroom exercises, Street Law has established

programs that bring experienced lawyers right into the classroom.⁶ For professionals looking to connect with the K-12 community there are plenty of ways to connect with teachers and their students.

The greatest change for me professionally came at the conclusion of my seventh year of teaching. As was my practice every year, I applied for the PATCH / LYC Summer Institute to gain new resources, ideas and to re-energize my mind and teaching arsenal for the year to come. What I did not know was that shortly after applying to be a participant in the 1999 PATCH / LYC Summer Institute, I would soon become the coordinator of the entire PATCH program. The coordinator at the time was a veteran teacher, Thomas O'Donnell, a legend in the field of Law-Related Education. I remember mailing in my resume, never believing I would actually be offered the position. In the first round interview I encountered my friend Joseph McGuire from Western Suffolk BOCES in the waiting room. Convinced Joe would absolutely get the job over me, I entered the interview with a relaxed "I've got nothing to lose" attitude and secured the position. I know had the responsibility of coordinating a program that was instrumental in my career. Even more exciting, or perhaps terrifying, was knowing that I had to follow in the path of Mr. O'Donnell and meet a standard of excellence in a program that had a lot of visibility.

Mr. O'Donnell was a big baseball fan. His one piece of advice to me was a baseball analogy. He said to me "if you want to have a successful program keep your eye on the elementary schools; in baseball the big leagues watch the minors, you have to watch the little league." It was a piece of advice I took to heart and one that would be quickly tested.

I was at Northport only for a short time when the principal at Pulaski Road Elementary School called me over for a meeting. Two fifth grade teachers, Antoinette Harmon and David Kaiser, had their students reading a book that they thought might lend itself to a 5th grade mock trial. They had the desire to do the project but needed the guidance of a colleague with experience teaching mock trial to help guide the project. The book the 5th graders were reading was

community partnerships with lawyers, law students, and police officers, all of whom teach our high school students about law and careers in law enforcement, law and government. These "community resource people bring the law to life through real-world examples and experiences and serve as powerful role-models."

⁶ For a description of programs offered by the Nassau County Bar Association, including the Lawyers in the Classroom Program, see http://www.nassaubar.org/For%20The%20Public/Student_Services.aspx (last visited June 14, 2016).

Shiloh by Phyllis Reynolds Naylor.⁷ The protagonist in the book is Marty Preston, a little boy who finds a lost, neglected and likely abused beagle he names Shiloh in the woods near his home. The antagonist is Judd Travers, a very rough around the edges woodsman and hunter who is claimed to be the rightful “owner” of the beagle known as Shiloh. As a Game of Thrones devotee, I know delivering a spoiler can get a person in a lot of trouble so I will resist the temptation to provide a full “Shiloh” plot summary here. It should suffice that the book provides enough characters, facts and plot twists to provide the foundation for both a civil trial and a criminal trial.

The Shiloh trials became a staple of the 5th graders experience in my district for many years. The program became so big we had a “Shiloh Cup,” a large trophy with a beagle on top that went to the elementary school in the district that won a final mock trial competition held in the auditorium at our district administration building. My dear friend, the Honorable James Hudson, presided over many of these trials. The Shiloh trials became such an important part of my teaching I even adopted a beagle who was a beloved family pet and fixture of the Shiloh trials for many years. Students enjoyed the opportunity to testify as a witness, conduct a direct or cross examination, object, submit evidence, deliver an opening or summation, to help prove their side of the case. The fifth grade teachers enjoyed the project as it required the students to understand the book and the relationships between the characters in deeper and more meaningful ways. As a “law-related” educator, I saw students having a much greater understanding of the law, the legal system and the work of attorneys to resolve conflicts peacefully and within the rule of law. These students weren’t just playing a role in a school project, they were learning about the critical functions of the judiciary in our democracy.

While the Shiloh trials were new to the students every year, creatively I felt the need to leave Marty, Judd and Shiloh alone for a while. I had tried mock trial successfully with the 5th graders for a long time. I joked that there might be a beagle on my tombstone and I would just be known as the “Shiloh teacher” if I did not give the program a short break. Around Northport, I frequently encounter adults in their mid to late twenties who remember me from high school but quickly turn the conversation to “do I remember” when they did this or that at their 5th grade Shiloh trial. Honestly, I don’t remember all of them, but I am always moved and impressed that they

⁷ PHYLLIS REYNOLDS NAYLOR, *SHILOH* (Atheneum Books for Young Readers, June 2012).

remember this moment from their childhood so fondly. I am thankful to have shared this experience with countless students through the years. Shiloh may still come back but we are currently on a break.

At Northport High School, there is a wonderful 11th grade program that teaches American History through Constitutional Law. This program inspired me to try something new. For the past few years, I have been implementing a moot court initiative with 5th grade classes throughout my school district. I will confess to being a First Amendment enthusiast. It has been my favorite subject for instruction for many years. I had the good fortune to serve as a lead teacher in my district in a joint project between the Association for Supervision and Curriculum Development (ASCD) and the First Amendment Center,⁸ known as “First Amendment Schools.” This was a network of schools and school leaders dedicated to advancing First Amendment ideals in America’s schools. This experience had a profound impact on my teaching. The leaders of the First Amendment Schools program remain some of my greatest mentors. With so much of my work dedicated to building capacity for student voice, I have found that lessons in First Amendment law, especially real cases having to do with students’ rights and civic responsibility in school settings, resonate immediately with students and engages them in ways that are relevant to their world. For elementary aged children, the school, their teachers, and the school administration (perhaps with the exception of their parents) represent the ultimate authority figures in their lives. For public school children, their experience in school is a daily interaction with government agents. While teachers in public schools may not see themselves that way, constitutionally speaking, public school educators exercise governmental power over students every day. How we treat students, what we include in the curriculum, and how we model respect for individual rights and civic responsibility is internalized and reflected in the culture of our schools and in how students view themselves as participants in their schools and in their community. In developing the 5th grade moot court program, I have been very purposeful in creating an experience that helps students see themselves as persons with inalienable rights under the Constitution and shared civic responsibilities. With the 5th graders, I often invoke the popular saying, “with great power comes great responsibility.” As persons with inalienable rights under the Constitution they have great power to use their voice in meaningful ways. They also have great responsibility.

⁸ See www.ascd.org for a description of this organization’s work; see also <http://www.firstamendmentcenter.org/k-12-public-school-student-expression-overview>.

The 5th grade moot court program starts with a lesson I call “45 Words.” The fifth graders take apart the 45 words of the First Amendment to gain a better understanding of the five freedoms the First Amendment protects. We discuss how freedom of religion, speech, press, assembly and petition has been important historically and remain so in their lives today. My favorite lesson with the 5th graders is when we talk about precedent. Much of this lesson is dedicated to the landmark Supreme Court case, *Tinker v. Des Moines Independent Community School District*.⁹ Students learn the story of siblings Mary Beth Tinker and John Tinker, their suspension from public school for wearing black armbands to school to protest the Vietnam War, and their fight for First Amendment rights for themselves and all students in America’s public schools. Students learn the Tinker Test which is still used by lawyers, courts and school administrators to determine whether or not student speech is constitutionally protected. Students learn to analyze cases related to students’ rights in the news. We discuss what it means to be materially disruptive of classwork and we define terms such as substantial disorder and invasion of the rights of others.¹⁰ At the conclusion of these discussions, I see students who are more open and comfortable discussing ideas that are different from their own and who can use “precedent” and the values inherent in the First Amendment to formulate arguments either for or against certain expression in school. These discussions are relevant, engaging and meaningful to the students.

The next lesson I do with the students I call “Oyez, Oyez, Oyez,” a reference to the Marshall’s call to order at the Supreme Court. I provide the students with a framework to prepare for an oral argument regarding a moot court case involving a fifth grader whose First Amendment rights may have been violated in school. In small groups, students are assigned a case. They must decide whether they want to advocate for the student or the school. When moot court is in session the students present the relevant facts, the legal issue, at least one precedent case that supports their argument (usually the Tinker case or a landmark students’ rights case that follows Tinker), a formal argument and a conclusion as to what they want the court to do.

The students are confronted by a hot bench but they are prepared for questions from the judges. They know that anyone on their team can be called upon at any time and that they will be interrupted with challenging questions. While moot court is a fixture of a law school education, the 5th graders demonstrate advocacy skills and enthu-

⁹ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969).

¹⁰ *Id.*

siasm that defies their age. They fully embrace their roles as attorneys and enjoy defending the rights of their clients and the constitutional principles at stake. The students develop a deeper understanding of the material as they must think on their feet and defend their position.

The elementary moot court and mock trial projects are always fun for me. They provide some great scouting opportunities for talent coming up to the high school in a few years, but also have deeper meaning. I work for a wonderful school district. The community is one that really believes in student empowerment and student voice. Like Mary Beth and John Tinker, I encourage the 5th graders (really all my students) to think about the things that matter to them. As a Law-Related Educator, I see my mission as preparing my students for participation in our vibrant democracy. I want them to be active, informed, engaged and responsible citizens. Over the course of my career, I am sure I have taught the Tinker case hundreds of times. A few years ago, I actually met Mary Beth Tinker, John Tinker and their fellow plaintiff Christopher Eckhardt. While Eckhardt passed away in December of 2012, I will always fondly remember my encounter with him. Mary Beth founded Tinker Tour USA¹¹ and had her first official Tour in the fall of 2013. My district was fortunate to host Mary Beth where she spoke to hundreds of our students, including several very lucky classes of fifth graders. Mary Beth Tinker shares a message that I work to keep alive with my students every day, “using your First Amendment rights makes life interesting and you never know how you will make a difference.”

I recognize that my work in law-related education occupies a small part of what must be done to revitalize civic education in our nation. As our nation continues what appears to be an obsession with education in science, technology, engineering and mathematics, we must not forget that the core mission of schools is to prepare students for participation in our democracy. The students of today are the leaders of tomorrow. They will be the voters, the jury members and the members of “*We the People*” that carry this nation forward.

Luckily, I am not alone in my work and my classroom experiences are not unique. While we are not legion, the teachers in the field of Law-Related and Civic education are dedicated and committed to this work. Wonderful national organizations like the Center for Civic Education¹² coordinate very meaningful national programs like “We the People,” a nationwide program where students compete

¹¹ See <https://tinkertourusa.org/> a special project of the Student Press Law Center whose mission is to empower the voices of our youth through First Amendment activism.

¹² For an overview of national programs currently available in diverse educational settings, focused on creating enlightened, responsible young citizens, see www.civiced.org.

in simulated congressional hearings where they give expert testimony on the Constitution. In New York, the New York State Bar Association's Law, Youth and Citizenship Program runs a statewide mock trial program which is among the very best in the nation.¹³ They offer a Mock Trial Summer Institute for High School Students and an annual Conference on Law and Civic Education that unites educators and law-related professionals from across New York in supporting exceptional Law-Related Education programs for young people. Of greatest importance to me is the ongoing commitment of the New York State Bar Association and The New York Bar Foundation in continuing the PATCH / LYC Summer Institute I first experienced over 20 years ago.¹⁴ I now coordinate this program as a statewide initiative. For 2016, the New York State Bar Association and The New York Bar Foundation sponsored professional development for New York teachers in Law and Civic Education in six locations. This started with a four day institute at Touro Law Center and continued with institutes in Albany, Buffalo, Rochester, Syracuse, and Westchester throughout this past summer. This investment by the New York State Bar Association and The New York Bar Foundation is very important. Teachers must be prepared to offer students authentic, meaningful and engaging classroom experiences that will have our students vested in the core principles and values of our democracy. I commend the New York State Bar Association and The New York State Bar Foundation for recognizing their essential role in investing in the development of our youth. Public trust and confidence in the law and the legal professional will only remain stable and improve to the extent the work of lawyers and the judiciary is understood. While mere knowledge of the workings of our government and legal system are admirable goals, it is having students understand and buy in to the values behind our legal system like respect for individual rights, due process, and the rule of law, that will preserve and protect our democracy. Perhaps, we can even restore a degree of civility to public discourse through these efforts.

One of the strongest and most respected voices currently advocating for civic education is retired Supreme Court Justice Sandra Day O'Connor. When she retired from the Supreme Court, she decided that championing civic education was going to be one of her primary causes. Deeply concerned about the state of American's civic knowledge, she founded iCivics, a free online resource rich in teaching

¹³ *Supra* note 1. This website describes programs being implemented throughout the state and is regularly updated to reflect current events. Presently, achieving justice for all, with an emphasis on diversity and inclusion, is the theme of several K-12 programs.

¹⁴ www.civicspdny.org (last visited Sept. 20, 2016).

resources and engaging online video games that are directed to a K-12 audience, especially middle schoolers.¹⁵ I was honored, and it was a true highlight of my career, to have been one of the teachers who worked on the original iCivics project. This included a trip to the Supreme Court of the United States to present curriculum ideas for iCivics to Justice O'Connor. I have never made it to the Supreme Court as a lawyer but was happy to do so as a teacher. I trust that someday one of my students, perhaps one that did the Shiloh trial or the 5th grade moot court project will make it to the Supreme Court as an attorney or perhaps as a litigant standing up for an important constitutional right.

Teachers never know how our lessons will impact the future. We hope to provide the best experiences for our students to prepare them for the awesome responsibility of participation in our democracy. Justice O'Connor perhaps expressed this best when she wrote "the fundamental skills and knowledge of citizenship are not handed down through the gene pool. They must be taught and learned anew by each generation; built upon over time, as we would learn a foreign language, reading or math."¹⁶ America's teachers can't do this alone. We need the voice of law-related professionals to continue to advocate for increased civic education in classrooms where the focus is increasingly on testing. More importantly, we need your time. I hope that the above might have you thinking of ways you might help create meaningful experiential learning experience for K-12 students closest to you.

¹⁵ www.icivics.org (last visited Sept. 20, 2016).

¹⁶ Sandra Day O'Connor and J. Glenn, *An Open Letter to American Citizens on Constitution Day* (Sept. 17, 2013).