

The Privilege of a Difficult Calling

Chief Judge Ann Bailey Smith

“There are some men in this world who are born to do our unpleasant jobs for us. Your father’s one of them.”

“To Kill a Mockingbird” by Harper Lee

As attorneys and judges we have unpleasant days. Some of our cases are difficult... difficult clients, difficult facts, difficult opposing counsel, a difficult judge (although not in Jefferson County), difficult decisions. These difficulties weigh on us, cause stress and anxiety, and make our day unpleasant. We may wish we were on vacation, or that it’s the weekend, or that we had chosen a different career path. We sometimes allow the few bad days to overshadow the run-of-the-mill days and even the sweet taste of victory days.

Years ago, as a trial attorney at the Public Defender’s Office, I was in trial in a death penalty case. I was also several months pregnant at the time and in the throes of morning sickness. Let me just say that morning sickness does not take a day off simply because you have a closing argument to give. As I drove on I-64 that morning to get downtown, I couldn’t help but look over at the other drivers and wonder what their day held in store for them. Surely it would not be as stressful as what I was facing. Surely they didn’t have another person’s life potentially resting on their summation to a jury. I remember thinking that I would gladly change places, no questions asked, with any one of them. I parked my car in the usual spot only to realize that I had left my keys in the ignition with the engine running. As I frantically told a colleague my predicament, he shooed me on over to the courthouse and said he would deal with my car, which he did.

I was totally frazzled and unnerved when I reached the courtroom, but I knew what I had to do, what I had been preparing to do for the past months, and I addressed the jury on behalf of my client. My morning sickness, my desire to escape, my idling car did not enter my thoughts as I talked to the twelve individuals who held my client’s fate in their hands. And as my nerves settled, I knew I was where I was meant to be and that I was doing what I was meant to do.

I’m sure many of us have had friends, neighbors, even family members say to us “I couldn’t do what you do” or “I don’t know how you represent that person, I certainly couldn’t.” As a public defender for many years, I heard those words frequently, particularly in those cases which received media attention. I quickly realized that those statements weren’t being made in a

complimentary manner but rather with an air of moral superiority. It was hard to not retort with a cutting remark, but I was usually able to control my tongue, mostly because I believed in what I did and felt no shame in representing those accused of crimes.

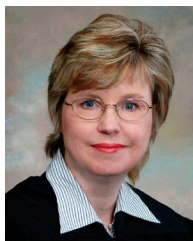
I have a healthy respect for the 4th, 5th, 6th, 7th, 8th and 14th Amendments to the United States Constitution. I have witnessed firsthand the effect an attorney can have on the outcome of a case and, as a result, on an individual’s life. What a layperson may see as an unpleasant job, I view as a privilege to do the work I did as a trial attorney and the work I now do as a judge.

I was reminded of the privilege of being a lawyer, of being a judge, when I attended the retirement party of Judge Erica Lee Williams in December. Judge Williams was appointed to the bench in 2009 and served in district court until her retirement. Most of you know that her retirement was brought about by her cancer diagnosis and the toll that the cancer and treatments have taken on her health. Judge Williams spoke with her customary enthusiasm and humor in spite of the sobering nature of this event. But one remark that Judge Williams made, which served as the impetus for this article, is that (and I am summarizing her words) she would happily be in any of our shoes, having the opportunity to serve once again as a lawyer or judge. One day she was on the bench meting out justice as only she could, and the next day she was in her doctor’s office being told that she has acute myeloid leukemia.

How quickly our lives can change, how quickly our chosen career path can end. If there is any unpleasantness in what we do as lawyers and judges, it is so greatly outweighed by the service we provide to others, sometimes in their darkest days. And there is always someone who would give almost anything to be doing what we do.

I also want to acknowledge, on behalf of the circuit court term, Judge Mitch Perry, who served as our chief for the past two years. He attended many, many meetings as the term’s representative, he reviewed thousands of juror excuses over the past two years and he supported and encouraged us when each of us needed it the most. Even though he from time to time threatens to retire to the fairway, we are grateful that, at least for the time being, he continues to preside in Jefferson Circuit Court, Division Three. Many thanks to you, Judge Perry, for your leadership, guidance and friendship.

Chief Judge Ann Bailey Smith presides in Division 13 of Jefferson Circuit Court. ■



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