

JUSTICE SCALIA WAS RIGHT!

By Michael L. Corey

That's one incontrovertible lesson I've taken from law school. Never mind his Originalism, Justice Scalia was right about something far more important.

Perhaps as penitence for his public put-down of the University months before, when he wryly mocked his hiring of Jeff Sutton as a law clerk from a non-Ivy League school – “For God’s sake, he went to Ohio State!” – Justice Scalia visited the Moritz College of Law in November 2009 to offer his insights into anything and everything about which he might have an opinion. Having already opined with his Originalist take on race-conscious policies, campaign finance and the judicial branch’s role in times of war, the most dazzling legal writer of his generation was posed a simple, jurisprudence-free question: How can I become a better legal writer?

Like his legal approach, the Justice explained, his answer was simple. Read. Read everything worthy of reading. Read the news. Read poems. And read books – especially books. Read history, read biographies, and read novels. Especially novels. And through all that you read, he insisted, you will learn how to better articulate that which you mean to say.

As a nascent attorney approaching my first anniversary in the profession, I gladly concede Justice Scalia’s point. But sadly, I confess to not reading enough myself. I suspect that most of us have the conviction to read more, and that most of us would be convicted for failing to follow through. In the unending pursuit of equilibrium between work and family and everything else, recreational reading often gets squeezed out. I’d suggest, however, that this poses more than a hindrance to our harnessing of the English language in our capacity as lawyers; it poses a hindrance to our development of humanity as lawyers.

“We’re talking in favor of a broad version of education that arches from the sciences to the humanities that starts early and continues all the way through people’s lives,” recently explained Richard Brodhead, the president of Duke University and the co-chair of a recent report on the importance of an education in the humanities. “That’s what gives people the full set of equipment they need for employment, for personal pleasure, for all the things that education is meant to supply.”

Lawyers are surely supplied with a host of skills, cultivated and harvested regularly in respective practices of law.

And we use those skills to displace skills that we assume we have no use for in the workplace. Grief, for example, is but a nuisance. Rather than cope, we rationalize our way to an abbreviated bereavement and plow through the pain. After all, tragedies care not for billable hour requirements. The world must go on, and so too, must lawyers.

And yet, finding the proper balance between attending to grief while attending to one’s job is a lesson that cannot be found in legal treatises, but in the writings suggested to us by Justice Scalia. “Coping” is a skill that will never appear on

a resume, but that is needed often throughout the trajectory of a career. It is identifiable to colleagues and clients, in work product and work relationships; it is a skill that may not be marketable, but that is indispensable. Treating grief as a mere distraction will only make it more so: ignored, grief will only fester into something out of one’s control.

That lack of control is precisely why I suspect lawyers tend to struggle with tragedy. We are trained to be in control, and refuse to cede it. Faced with a divergence in the woods, we follow the downtrodden path, because that is what our profession requires. I humbly suggest that prose and poetry can help us do more along the way than better articulate our wits as Justice Scalia suggests, but to keep them.

The medical profession has caught on to this phenomena, with dozens of medical schools and a growing number of medical professionals embracing prose and poetry in their pedagogy and in their patient rooms. I’m confident these lessons could apply with similar force and beneficial effect to lawyers.

A dear friend and fellow attorney was recently beset by tragedy, and I have tried steering him toward lessons I learned in 2005 when my father passed away. Though I gratefully accepted the embrace and condolences that came from caring people around me, it was in reading and writing that I found the steadiness I needed to plow through my daily duties, then as a senior in college. I found solid ground in words and stories, words and stories I leaned on to articulate something – if only to myself – of depths of grief I’d yet to fully understand.

Toward the end of that school year, I had the chance to introduce myself to the University president, Richard Brodhead. “My mother and I recently received a letter from you, offering your condolences after my father’s death. I just wanted to let you know how much we appreciated you going out of your way to do that.” President Brodhead gently placed his right hand over my heart. “This is part of your education. Learn from it.”

An understanding of the tragedies that enter our lives is a lifelong pursuit, as is the practice of law. The two will inevitably intertwine, too many times over. Whatever skills and tools are at our disposal as practitioners of the law, reading is one pursuit that can help us grow as lawyers while navigating the storms that come our way.



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