

Sunday, December 17, 2006

Eliminating the hurdles to fighting for social justice.

Many law students dream of working for social justice, but later find themselves sidetracked by mainstream jobs, bills, family-raising, and the fear of rocking the so-called boat by being "too activist". I encourage everyone -- lawyers and non-lawyers alike -- to follow their dreams of fighting for social justice. Numerous hurdles may be encountered along the path, including financial considerations, time limitations, and pressure from family and friends. However, absent reincarnation, each of us only goes around once in life. When a person works and lives according to the person's conscience, the person can lead a happier and more fulfilling life that is truer to the person's real self. Fighting for social justice does not preclude working and living in the mainstream. However, some aspects of the mainstream can go against the tide of social activism. I learned that at my first law firm (1989-91), which recognized lawyers' pro bono obligations, but which eclipsed pro bono work with its mainstream corporate law work. All was not lost, fortunately, because at this law firm I learned many critical lessons of lawyering, client relations, and civil litigation that have benefited me ever since. I next joined the Maryland Public Defender's Office in 1991, anticipating more of an overlap between my social justice idealism and my working life. Such an overlap was partially fulfilled, and may have been even more fulfilled had I joined a public defender office that had more of an us (the criminal defense side) versus them (the rest of the criminal justice system) view. I learned early on that many of my public defender co-workers had no preference for working on the defense side over the prosecution side. One warned me about wearing my heart on my sleeve. Another said he didn't give a f--k if the jury convicted one of his clients so long as he put up a good fight. So, I sought out fellow idealistic criminal defense lawyers, often having to find them miles away at conferences of the National Association of Criminal Defense Lawyers, at the National Criminal Defense College, and at the Trial Lawyers College. At the Trial Lawyers College, I met many first-rate personal injury lawyers, among others. Never before had I given much thought or interest in that area, but also knew that such work could be an important supplement to becoming my own boss and focusing on criminal defense, and to providing further strength in doing jury trials. Ten years ago, to learn this area of law practice, I joined a Washington law firm that focuses on personal injury, tried over fifteen jury trials and numerous bench trials, handled many mediations and arbitrations, negotiated settlements in many cases, and left there two years later finally having no mystery about litigating civil cases. This experience became very important for me in defending libel cases, litigating against the government for First Amendment rights, and defending the Constitution in general in civil court. I finally fully flexed my social justice wings by opening our law firm with Jay Marks in 1998. Nobody at our firm questions us about the work we do. We are our own bosses, answer only to our clients, and have clients coming to us for the work we enjoy most. Fortunately, I did not wait more than two years after law school to get closer to the social justice path. The following event was one of my catalysts in this direction, but certainly not the only catalyst: During my second year at my first law firm (1991), a Capitol police officer threatened me and my co-demonstrator with arrest for carrying anti-war posters without a demonstration permit when the Senate was debating whether to authorize war against Iraq for a Gulf War I. The situation became even more ludicrous when the Capitol police permitting office would only offer a demonstration permit space far to the east of the Capitol building and far away from every Senate member. When I asked why we could not get a permit closer to the peace demonstrators with a premium spot near the Capitol's western steps, the response was that such a closer spot was only available by applying further in advance. I said that our demonstration was spontaneous, in response to a radio news report that same Saturday morning that the debate was in progress, so there was no way for me to know in advance of my desire to demonstrate on that particular day. My argument fell on deaf ears, other than to be told we could ask the other demonstrators if we could join them. The other peace demonstrators told us of a more substantial peace demonstration to start soon at Lafayette Park across the White House. We went there, where a stronger antiwar message was made, and where I started feeling less isolated about my antiwar views and learned that plenty of mainstream people also opposed war at that time. Within two more years, I would have learned that it was not hard to find people who shared and worked for any social justice view that I held. The isolation was broken. This Lafayette Park protest was around my sixth demonstration -- to be followed by a big anti-war march two weekends later -- but the previous demonstrations were much less controversial and less eventful, including marching for animal rights, against the Tiananmen Square massacre, and for Soviet Jews; and joining a pro-choice rally (a controversial topic but without significant conflicts between the opposing sides at the rally). At this Lafayette Park antiwar demonstration, I saw police coming within six feet or closer to demonstrators and photographing them. I asked a police officer if this was meant to intimidate, and he claimed it was just to record the events if anyone broke the law. I did not buy that explanation then, and I do not buy it now. Along the path, I became more activist. I became active with the local ACLU, where I met many lawyers at mainstream law firms who were willing to focus their pro bono attentions on ACLU causes rather than on less controversial matters that might earn their firms more instant dollars (including taking high-profile roles in the mandatory bar). Soon after we opened our law firm, plenty of people already knew, and plenty more soon learned, of our zealotry for social justice. This made it all the more possible to overlap my work

life with my devotion to social justice. Â To those who say it is too hard to find a way to work forÂ social justice in the face of so many perceived hurdles in their lives, I sometimes wondered about this, until I started doing itÂ in full force. For me, it has been like turning up a faucet that has refused to be turned down ever since. Join me. Jon Katz.Â

Posted by Jon Katz in Jon's news & views at 00:00