

Monday, April 21, 2008

In praise of Ernie Lewis.

Photo from website of U.S. District Court (W.D. Mi.).
Every criminal defense lawyer should attend the National Criminal Defense College's Trial Practice Institute, known in shorthand as Macon for the program's location. At least when I attended in 1994, competition for each Macon slot was very high among state-level public defender lawyers. The program sought diversity among private practitioners (from whom applications were much fewer than from public defenders), state-level public defenders, federal public defenders, twelve experience levels, and gender. For those not accepted into Macon the first time, I recommend to try, try again, and to attend NCDC's long weekend programs in the interim. Some NCDC applicants get admitted off the waitlist, and it helps for the waitlisted applicant to tell the NCDC if s/he can have the applicant's calendar cleared and a plane ticket in hand if a spot comes open.
When I attended Macon, my first small-group instructor was Ernie Lewis, covering the initial client interview, where we had separate professional actors playing the roles of a rape defendant, two murder defendants, and a bank robbery defendant, Ernie had the gift of being at once gentle, caring, actively listening and communicating, and persistent for lawyers to "get it right".
At Macon, each attendee was assigned one of the foregoing four cases, and worked on the case for all stages of trial preparation. My client was a rape defendant who had a lot of trouble understanding why he was even locked up in jail awaiting trial. With me, he repeated several times his fears about the complainant getting him convicted. The other lawyer defending him at Macon was a woman, and numerous times he told her how pretty she was. I made the mistake of focusing my client at the outset on preparing him for his upcoming bond hearing rather than listening and responding closely enough to and empathizing with his immediate fears about the complaining witness. I tried it a second time, and found that it would take lengthy and numerous conversations with him to build enough of his trust, where the seminar did not enable enough time to do that. Now back in private practice for nearly a dozen years, controlling my number of clients assists me better in giving clients the time needed to sufficiently and effectively hear and communicate with them, which is a topic that I repeatedly discuss.
Macon has a mix of highly charismatic, comical, riveting, and caring instructors, with all of them being highly skilled and experienced. Ernie Lewis's biggest gift that he shares with everyone is his caring and intuitive approach to teaching and sharing. He is the real McCoy; he does not try to act charismatic or hilarious, and is all the more powerful for being his real self.
Now, reports Arbitrary and Capricious -- who also had Ernie as an NCDC instructor -- Ernie is leaving his post this September 1 as Kentucky's chief public defender. Recently, Ernie said in a news release: "While I have been able to achieve my most significant goals, I remain deeply concerned by the problems that remain." He said defender caseloads are grossly in excess of national standards, salaries increases are needed for new lawyers, a loan assistance program is needed for public defenders in order to retain them after their initial training period and the department needs a social worker for each office in order to find treatment alternatives for clients. He said next year's budget will require the department to cut back on representation of thousands of cases for poor Kentuckians. "I am profoundly disappointed with the failure of the 2008 General Assembly to fund a constitutionally adequate public defender system," Lewis said. "While we have made much progress over the last 12 years, Kentucky continues to fund its indigent defense system at the bottom of the nation." Thanks, Ernie, for keeping the fire going in your belly, in a most t'ai chi way. Thank you for sharing that fire with me. Jon Katz.

Posted by Jon Katz in Criminal Defense at 00:00