

Thursday, August 31, 2006

Never give up; never give in.

Fifteen years after starting my criminal defense career, what keeps the fight, zeal, and steam in me? Some of it comes from those around me, with my kindred spirits on one side, and, on the other side, those who perpetuate unfairness and injustice. Sometimes the inspiration comes from the selflessness of great lawyers. Recently, I sought the wisdom and brainstorming of one of the deans of federal criminal defense law for a critical sentencing matter. He prefers to remain anonymous, or else I would have named him here. Deservedly so, he seems roundly liked and well-respected by other criminal defense lawyers. He probably gets all the more calls for advice, as a result. In my moment of need, he answered the phone on my first call. He quickly hit the nail on the head in response to my persuasion issues. He asked for nothing in return. As I understand it, he was working into the night, and had a significant court deadline in two days. Talk about selflessness and commitment to helping other lawyers serve justice. Compare this to some lawyers (and non-lawyers) who mistakenly believe that the road to success is by stepping on the competition's heads. That is one of the roots of social injustice: stepping on others in a race to the top, rather than helping others rise as we rise. A big theme when I attended the National Criminal Defense College's Trial Practice Institute and Trial Lawyers College over a decade ago was our duty to share our knowledge and abilities with our sister and brother lawyers for justice. I totally subscribe to that. So many of my colleagues have given so much to me and my clients that I would not be able to give back to others what they gave to me even if I spend all my waking hours trying to do so. It is easy to get lost in the daily shuffle and grind of deadlines, days with too few hours in them, and occasional sleep deprivation to put off taking a call from a colleague in need. So many have taken my calls that I do my best to take such calls as soon as possible. When I later updated this lawyer on the substantial mini-sentencing victory I got in this case (reducing the RICO count from life to nine years imprisonment), he congratulated me and said "Never give up. Never give in." He is a true warrior for justice. Additional inspiring words to keep fighting for justice came today from Peter Erlinder, who is a National Lawyers Guild activist (I support the Guild's many good human rights actions, but oppose many of its policies and pronouncements) -- and probably opposed that the law school where he teaches has named its law library after former chief justice Warren Burger. Responding to my message about the necessity of accepting personal risks when pursuing controversial fights for justice, Peter was reminded of Frederick Douglass, who said "power concedes nothing without demand, it never has and never will....those who want freedom without struggle are like those who want the crops to grow without the rain..." Yesterday after leaving the criminal courthouse, my client remarked at the zeal for justice that I have maintained after all these years. (Wait a moment. I'm only 43. I was too young even to have been a hippie). I traced this zeal as far back as the age of nine (probably earlier) when the adjacent fourth grade teacher had the audacity to accuse me of trespassing on the apartment grounds across the street for no other reason than that a brown-haired boy around my age in a blue coat was allegedly seen there. In one of my earlier instances of self-advocacy, I retorted contemptuously: "Not only have I never been to that property, but I am angered that you have singled me out just because I have the same color of coat that most boys my age wear," and walked away from this precursor to the DARE soldiers. So this is what misidentification and J'accuse is all about. I want nothing of it. Near the time I completed law school, I was walking about four blocks from the White House where two or three cops were towering over a powerless-looking man -- apparently homeless -- bothering him for no apparent reason other than that he looked homeless. Each time the man tried to talk, the rookie-looking cop gleefully and sinisterly hissed "Shut up." I am ashamed that I only watched in disgust and naive surprise, rather than speaking up. I already knew that silence is the voice of conspiracy; I want none of that conspiracy, and by now have caught up for lost time. Jon Katz.

Posted by Jon Katz in Criminal Defense at 00:00