**SO YOU WANT TO BE A CRIMINAL DEFENSE ATTORNEY**

For the past forty-three plus years, each morning I have gone to work as an attorney licensed by the State Bar of Texas. For the first five or so years, I worked for law firms, trying cases of many different types both criminal and civil. I was fortunate to have practiced during a time when the Constitutions of the both Texas and the United States protected our fellow citizens, both under criminal and civil jurisdictions. This was back in the time when courts were governed by the law and not by political influence or the judge’s concerns about being re-elected. It was a time when judges were judges because they either just wanted to be a judge or they felt an obligation to serve. But not only has the attitude of judges changed, so have the attitudes of a large portion of attorneys. With the proliferation of attorneys having come into the practice of law, the costs of operating a law office or law firm, the costs of advertising, and the lack of compassion have all crept into the practice of law, it appears that being a lawyer has degenerated from a profession to a business. Many attorneys today are more concerned with these matters than with providing the services that we all have sworn to do when we received our licenses.

I have been just as guilty as any of them in these areas, and even today, often struggle within myself to “take up the sword” to defend or attack the injustices that many people face from the government or their fellow man. Having tried more cases than I can count in my career, I have noticed that today, it is not about justice, but about winning or losing. Seeing two prosecutors do a “high five” when the jury answered the three questions in the affirmative in a death penalty case, prosecutors who conceal exculpatory or mitigating evidence in a criminal case, and the attitude of “winning at all costs” have become the norm in today’s courts. This goes even beyond the attorneys representing the government to law enforcement officers who are untruthful, or who lie to a suspect in order to gain a confession under the guise of “acceptable police procedures”, are also very commonplace today.

This is not what our system of jurisprudence was founded upon nor what it should be. The American system of justice is unique in the world both in the past and presently. Our court system was founded as the “great leveler” of all claims. Each person is to be treated equally under our law regardless of race, creed, gender, or economic status. This is the only human institution that is supposed to treat a voter the same as the President, the banker the same as a welfare recipient or an illiterate the same as a PhD. However, we all know that is not the case today in the sense that people would have us believe. Some people are more intelligent than others, some have better opportunities because of birthright or economic status, some people make better products than others, some lawyers are better lawyers than others, and some are born gifted beyond others in many respects as a musician, writer, or athlete. I have found that within the ranks of criminal defense lawyers, you discover more attorneys who are concerned about their clients, than among civil attorneys. You find attorneys who defend their client and his or her rights without regard to profit, “bottom line” or public disfavor. They believe in zealously defending their and our system of jurisprudence. They are not infected by bias, prejudice, or social status and oftentimes financial gain. These lawyers are even willing to risk career in pursuit of justice, not being concerned about retribution from the court or society. Each of these individuals having the courage to proceed in a case, oftentimes knowing they are beaten, but begin anyway and seeing it through to the end. Some would call them idealists, I call them “heroes”. They believe in the system and do not fear the court’s attitudes or rulings or public disfavor. If you have never tried a controversial case in a small jurisdiction where the public in that jurisdiction dislike, hate and oftentimes chastise your client and you as well, it would be difficult for you to understand. If you have never been represented a client where you and/or your family have received death threats, it would be difficult for you to understand. If you have never been involved in the defense of a client, where even your own family questions your representation and the effect it may have upon your family and friends, it would be difficult for you to understand. Your dedication to your client can, in some instances, place major stress on you, your family, your relationship with your family, your financial status, and your acceptance within your community. Often there is a feeling of isolation in your efforts to represent your client. It may be you and your client against the entire government, the general public, the media and even sometimes your own family and friends. On the prosecution side, the prosecutors generally today have the general populace, media, and even sometimes your own family members questioning what you are doing and why. Laymen in our society have difficulty understanding that just because you defend a person charged with a specific crime, that you somehow condone the commission or omission alleged against him or her. After almost forty-eight years of marriage, I have personally been subjected to all of these, and it is a miracle that I am still married. I attribute the longevity to my wife’s understanding of the commitment an attorney must make to represent the “citizen accused”. If you are going to call yourself a “criminal defense attorney”, you have to be willing to put these concerns aside and go forward without regard to same. You need to speak with your family, friends and acquaintances, when confronted by them, from the standpoint of your duty and oath, and try to get them to understand but not to accept the responsibility which you have chosen to take up in the case. Don’t try to convince them, only try to get them to “walk in your shoes” and understand where you are coming from. Most times you will be unsuccessful in doing so. You are not trying to change the world. Your responsibility is to zealously defend your client to the best of your ability. And, in doing so, you must keep a high regard for all things moral and ethical regardless of the actions of the government attorney or the government’s agents and the pressures you may feel from family and friends. You must also understand the stress that can be put not only upon you, but also upon your family and friends as a result of your actions in defending your client. I have had moderate success in telling them, “Look my responsibility as an attorney representing my client is to present every legal defense available to my client, as well as require the government to meet their burden of proof beyond a reasonable doubt. I will present any viable defense regardless of my personal feelings about its true merit. I will never knowingly present testimony that is false, but will use true testimony to any benefit I can for my client. I was not put on this earth to assess judgment on the moral guilt or innocence of my client, I only deal with legal guilt under the law.” There should never be any moral dilemma once you assume the duty to defend your client. I have defended people that have committed crimes that go beyond description during my career, without any remorse on my part, as I do not consider the issue of moral guilt. This is what each of us must do in every criminal case. If you possess such a dilemma, you should withdraw from the case or from the practice of handling the defense in criminal cases.

I learned a long time ago that being an idealist is perfectly acceptable, as long as you are a confirmed realist about your case. I have tried many cases that I had little or no chance of winning. But as long as my client knew the risks involved and accepted those risks, I gave it everything that I had in his or her defense. Not one of us like losing, but it is not about winning and losing. It is about justice. What is just is not always right, and conversely what is right is not always just. We as criminal defense lawyers must strive for justice in every case. We must communicate the good and the bad facts to our clients. We should advise the client of the risks involved and satisfy ourselves that the client understands and accepts those risks when he or she makes the decision concerning trial or plea bargain. It is the client’s decision Just make sure your client understands the risks involved and the consequences of his or her decision. It is his or her liberty that is in jeopardy not yours. If your client has knowledge of and understands these risks and consequences, his decision should not affect you nor his defense.

You must be willing to accept and deal with the foregoing discussion in order to be a criminal defense attorney. It is not easy and at times the stress may seem unbearable. But I have discovered, by doing so, I am able to look in the mirror at myself without reservation and devote my personal beliefs and desires to my family and friends. I would not trade it for any amount of social status, money or public admiration. I am a criminal defense attorney, the last bastion of protection for the citizen accused against the onslaught of government persecution, injustice, bias, prejudice and ignorance faced by my client.

A number of years ago, I wrote the following, which may or may not mean anything to anyone but me. However, I pass it on hoping that it may assist you in your pursuit of being a criminal defense attorney.

THE ADVOCATE

With head held high

Armed with wit and knowledge

He attempts to defend

His fellow man without regard

To the consequences of his actions.

He receives little appreciation

From those around him,

But continues his fight

Against intolerance and the unscrupulous.

Often he sacrifices his personal goals and desires

To protect his client

From those trying to deprive his liberty.

His beleaguered figure

Oft marred from previous battles,

But never the less ever striving

To protect the rights of the citizen accused

From the injustices of mankind,

The government and its impersonal edicts.

His weapons,

His word, his ingenuity, wit and intelligence

Always armed,

Ever ready

For the defense of his clients.

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