



We Are Not Alone

A Sole Practitioner's Rewarding Journey From Mentee to Mentor

BY BRIAN WICE

JANUARY 1980. THE DAWN OF A NEW DECADE. GAS STILL COST LESS THAN \$1. DISCO HAD COME AND, MERCIFULLY, GONE.

Our president, who would lose his job the following November, complained about our “crisis of confidence.” I was a briefing attorney at the Texas Court of Criminal Appeals, and even though I made a king’s ransom of \$13,500, it was the best year of my life as a lawyer.

During my clerkship at the CCA, then the only appellate court with criminal jurisdiction, I read hundreds of briefs of all genres written by lawyers from both sides of the aisle. I bore witness to all types of oral argument—the good, the bad, and occasionally, the incomprehensible—and learned the art of appellate advocacy from the best seat in the house. But most important of all, the CCA was where I met the man who would not only become my first mentor in the practice of law, but also someone who would inspire me, a quarter of a century later, to become a mentor myself.

Judge Sam Houston Clinton, elected to the CCA in 1978, was a larger-than-life native Texan never without his unlit cigar, and whose rabbinical beard, one that grew with his tenure on the bench, reminded me of Moses without the tablets. As his briefing attorney, I wrestled with the herculean task of drafting opinions in every type of criminal appeal and post-conviction writ, in addition to acting as his full-time sounding board and part-time chauffeur when his classic ’64 Mustang was in the shop. Early on, he instilled in me his deeply felt belief that being a

lawyer demanded unmatched preparation, unrelenting passion, and unyielding effort every time I walked into any hallowed arena where justice was dispensed. It was a philosophy I was determined to pass on as I waited for the time to arrive when I would become a mentor.

Twenty-five years later, it did.

In fall 2004, I became involved in the Susan Wright appeal, investing five years and several hundred thousand dollars of my time on a high-profile case almost no one thought I could win. An attractive 26-year-old housewife, whom the tabloid media affectionately called “the Blue-Eyed Butcher,” Wright had been convicted months earlier of stabbing her husband 193 times and burying him in the backyard of their west Houston home. Knowing of my interest in the case, a colleague who played a cameo role in the trial arranged for me to become Wright’s lead pro bono counsel on appeal. In exchange for having his name on the brief and keeping his promise to provide almost no meaningful assistance once I signed on, he conscripted his law clerk to help me with legal research. His clerk was Carmen Roe, and it was, in the words of Humphrey Bogart in *Casablanca*, the beginning of a beautiful friendship. It was also my entree as Carmen’s mentor.

Having passed the bar the following May, Carmen was an integral part of both the unsuccessful appeal and the successful post-conviction writ when, five years later, we shocked the world by convincing a unanimous CCA that Wright’s lawyers had rendered ineffective assistance of



Brian Wice and Carmen Roe outside of the 3rd Court of Appeals courtroom in Austin after Wice argued the Tom DeLay appeal in October 2012.

counsel in the punishment stage of her trial. I remained her mentor in the years that followed our dramatic win in Wright—and in a number of other post-trial victories—Carmen received a crash course in the zero-sum, contact sport of criminal appeals and writs. She also endured listening to me tell her, almost daily, that the key

to success in any courtroom was, in the words of NFL coaching legend Bum Phillips, “to act like you’ve been there before.” I’m proud that Carmen’s passion has not waned when, as anyone who handles criminal appeals and writs knows, we meet with more heartbreak and defeat than a Chicago Cubs fan.

Viewed through the prism of my experience with Carmen, what follows is my take on what anyone who believes that being a mentor is in their DNA should know. One caveat: mentoring is like EPA mileage ratings—your experience may vary.

First, you must have the gravitas to point your charge in the right direction, or at least as the Hippocratic Oath commands, “to first do no harm.” You don’t have to be a latter-day Justice Brandeis or a self-styled legal expert to be a successful mentor because as Mark Twain once said, “An expert is just some guy from out of town.” But as a criminal appellate and post-conviction writ lawyer, I simply don’t know enough about the blocking and the tackling of patent law, intellectual property, or elder care, to mentor a young lawyer in any of those fields of practice.

Second, as Sonny, the Mafia boss in *A Bronx Tale*, tells the teenager he is mentoring, not surprisingly, against the wishes of his father, “You know why I live in this neighborhood? Availability. I wanna stay close to everything.” I’ve learned that being a mentor means taking a frantic phone call from a distraught lawyer, even if I’m on the 15th hole at Pebble Beach or getting ready to do a live shot on national TV. If you have more call screeners than Nancy

Grace or take or return phone calls with the frequency of Halley’s Comet, you’re not available, and the odds of being a bona fide mentor are akin to Lindsay Lohan winning an Oscar.

Finally, while patience is certainly a virtue, my friends will readily acknowledge it is not one of my strong suits. Regardless, I’ve learned that coolness and composure are critical pages in a mentor’s playbook whenever Carmen, or any lawyer who seeks my guidance, asks a question I might have answered on multiple occasions, or makes a rookie mistake that has the potential to be a game changer.

That my experience as a mentor has been infinitely rewarding was reaffirmed in September, when Carmen made her speaking debut at a Texas Criminal Defense Lawyers Association appellate seminar at which I was course director. Speaking on motions for new trial, a topic seldom described as scintillating, Carmen knocked it out of the park, compiling the second highest-rated reviews behind Randy Schaffer, the gold standard in criminal appeals and writs, and coincidentally, who mentored me in the years after I left the Court of Criminal Appeals for private practice. As Carmen stepped up to the podium, I felt like a proud dad at his daughter’s graduation, hoping that I played a part in her transformation from the rookie law clerk unwittingly thrown into the deep end of the pool in the Wright case, to the up-and-coming young lawyer she is today.

In the years ahead, I hope that Carmen will share her advice and counsel, and, most of all, her time, with any young lawyer lucky enough to have her as a mentor. I’m confident she’ll instill in them the importance of not just unmatched preparation but of never losing hope and passion in a practice seemingly designed to suck both out of you on a daily basis. Most important, I know she’ll tell them they’ve got to act like they’ve been there before. **TBJ**



BRIAN WICE

is a Houston criminal defense attorney who specializes in appellate and post-conviction work. Wice was named 2010 Attorney of the Year by the Harris County Criminal Lawyers Association and the Houston Press and selected as a Super Lawyer in 2011 and 2012. He is also a legal analyst for KPRC-TV in Houston.