

AN ODE TO ST. PETER: PROFESSOR PETER M. CICCHINO

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AMERICAN UNIVERSITY WASHINGTON SCHOOL OF LAW
FIRST ANNUAL PETER CICCHINO AWARDS
APRIL 17, 2000

As my title indicates, I come here to praise and celebrate the wonderful life and great accomplishments of one of many of my heroes, Peter Cicchino.

When I use the term hero, it is reserved for a very small and distinct group of individuals. I use it to cherish the accomplishments of those who have come such a long way in their lives, and who use their talents, skills and gifts to further the cause of justice for the poor, the voiceless, the helpless, the needy, and the downtrodden. I use it in recognition of the great work of the lawyer and pacifist, Mohandas K. Ghandi, who through his sheer force of will and energy transformed one of the largest nations in our world. I use it to celebrate the incomparable life of Caesar Chavez,¹ who organized a group of powerless individuals to not only free the land from its oppressive state, but to have dignity and respect as immigrants who toiled in the fields at risk of their lives, without any protection of the law. I use it to praise the courageous work of Fannie Lou Hamer, a staunch supporter of democracy, justice and freedom, who defied authority and insisted that all people should be endowed with the basic right to vote and changed the fundamental principles. I use it to celebrate the wonderful life of the Reverend Dr. Martin Luther

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1. Charles Ogletree, *The Quiet Storm: The Rebellious Influence of Cesar Chavez*, 7 HARV. LATINO L. REV. 1 (1995).

King Jr.,² who told people, who had doubts, that they were fully enfranchised men and women with character, talent and values that could transform a society. I use it to acknowledge the incomparable power of healing of the people's anointed Saint, Mother Teresa, who walked the streets where no one else would go and gave people hope, dignity, and pride in living their humble lives. I use it, in the final analysis, to say thank you for your incredible and courageous work, Peter J. Cicchino, one of the most gifted people that I know.

Peter Cicchino is a phenomenon. Like that Negro spiritual that so many of you know, Peter climbed up the rough side of the mountain to get where he is today. He was not born with a silver spoon in his mouth, nor has he ever expected or strived to have wealth or power as symbols of intrinsic success. Because of the great love and affection of his parents, he was able to transform his life from the most humble beginnings to become a gifted student and teacher, someone who continues to this day to set a model of excellence for all of us.

Peter's work in finding shelter and providing comfort to homeless gay youth, promoting human and civil rights for ostracized citizens, and, here at American University, teaching the next generation of warrior advocates, is inspiring.

It is a special pleasure to be back here at American University Washington College of Law. As few of you probably know, it is at this institution, nearly two decades ago, that I began my career as a law teacher. Even though I was frequently rewarded with good outcomes in pursuing day-to-day challenges serving in the nation's greatest law firm, the District of Columbia Public Defender Service, I wanted to seek out new challenges and additional ways to have an impact on the legal system. To my great surprise, one of American University's all time legendary law professors, Professor Burt Weschler, not only encouraged me, but made it possible for me to join the American University Washington College of Law Faculty as an adjunct professor. My first course was about the criminal justice system. I used it as a means to talk about some of the broader issues that are so important in this world and that had a great impact on my chosen vocation. The fact that Peter Cicchino, my former student, chose American University, of all places to offer his legal talents, is a source of great pride and inspiration to me. As you see, Peter Cicchino was one of my great students. I do not say that lightly. I have had an

2. MICHAEL ERIC DYSON, *I MAY NOT GET THERE WITH YOU: THE TRUE MARTIN LUTHER KING, JR.* (2000).

incredible number of outstanding students to work with in my nearly two decades in legal academy. Many have gone on to do great things. Many are some of our nations most successful advocates today. I have to say, however, that some have gone on to break my heart. I do not say that in a mean-spirited way but with a sense of resignation. They have broken my heart because they have, which is their right, chosen to focus on money over morality, profit sharing over poverty law, and, most, disappointing, work for just themselves over justice.

I did not come here to criticize any of my former students, all of whom I actually love very dearly, but to make a point. The fact that you can teach people to be compassionate, committed and focused advocates does not mean that they will follow that path. In fact, I think that it is quite obvious that you can teach people ethics but you cannot teach them to be ethical. It takes an inner spirit and special talent. Indeed, it takes a calling. Peter Cicchino has that calling. The calling, strange as it may seem, started with his years as a member of the Jesuits. While Peter, understandably, will tell anyone willing to listen that he left the Jesuit in the 1980s, his special commitment to said those suffering, confirms my belief that the most adorable qualities of the Jesuits has never left him. That calling continued in full force when he came to Harvard Law School and decided that it was his mission to help the needy, the poor, the dispossessed and the downtrodden. He did it from the day he arrived at Harvard Law School, and he continues to do that to this day.

As a law professor, it is always a challenge to try to make sure that you are prepared for whatever your students may bring on any given day. I can say, without exception, that I always felt prepared for my students and that I had something special to offer based on my experience and learning. That is, with the exception of Peter. Peter is brilliant, with an agile mind, and is able to use it at every moment in ways that continue to mystify me. As a law professor, I always gave students an enormous amount of reading to do. It is for two purposes: (1) I thought that they needed to be prepared for the challenges that they would meet each day as advocates for clients in court; and (2) I thought it also prepared them for some of the varied challenges they would face in life. Each day as a teacher, I always had a special challenge. I have never admitted it before this evening, but I had two concerns about Peter. First, I never thought that I was prepared enough to answer the many challenging questions that he would raise. By the time he arrived at Harvard Law School, Peter was already an advocate for causes far beyond those I was trying to teach in the course. Moreover, even though I had given an enormous

amount of reading material, Peter was able to find relevant analogies in the classics, religious writings and some of the more philosophical underpinnings that he relied upon everyday. Second, it was a challenge serving as a teacher of a student who could easily be the teacher of the class! I felt curious everyday because, even though Peter could answer all the questions about a broad range of topics, I always wondered how he could develop so many thoughtful insights based on what was in the reading. Accordingly, I am compelled to ask him today, Peter did you do the reading that *I* assigned?

As you see, Peter was so facile in all the challenges that he pursued that it was not obvious where his sources came from, but it was obvious that he had many to offer. If you doubt my word, let me recall an exchange I had with Peter one day.

“Peter, can you direct me to the CVS Pharmacy in Harvard Square?” The simple answer would have been, “Professor Ogletree, take a left out of the building (Peter loved mentioning the Left, in any context) go two blocks, and you can’t miss it.” But Peter’s response was, shall we say, a little more complicated. “Professor Ogletree, what do you mean by Harvard Square? Is Harvard really square or is that simply an overplayed descriptive analysis? What is your mode of travel? Are you traveling alone, or with others? Are you likely to engage in a frolic or detour? Professor, your question is so full of gaps, ambiguities, and contradictions, I can’t possibly answer it. Other than to say that, in a post-modern, nouveau hegemony sort of way, the real question is how Harvard Square perpetuates the domination of subordinate groups through exploitation and preserves the power of the ruling class.” Just as I am about to give, two Harvard Law students rescued me, asking, “Professor Ogletree, what was the question?” Another would ask, “Is this going to be on the final exam?”

Despite these exchanges, Peter is a shining example that other students could follow today. What is it about Peter Cicchino, and his commitment to public interest law, that should serve as a model for future lawyers?

Let me apply the notion of Peter’s calling to some broader principles that have guided me, and may guide you in your work as public interest advocates.

First, it is that this calling is spiritually based and politically focused. The combination of spirit and politics is incredibly powerful these days, and it allows for you to leave a marker that is distinctive and overwhelming. It is also a strength that allows you to not only have empathy, but to use it in a way that empowers your client. Peter is an

empathetic person, and has become, in my view, a symbol of the value of empathy as a motivation for lawyers.

My relationship with clients was rarely limited to the provision of conventional legal representation. I did not draw rigid and binding lines between my professional responsibilities and my personal obligations. In my relationship with clients, I tried to come as best as I could, to approximate a true friendship. I did for my clients all that I would do for a true friend. I accepted phone calls at all hours of the night, helped clients to find employment, and even interceded in domestic conflicts. Moreover, I would attend my client's joyous occasions such as weddings and somber occasions such as funerals. When my clients were sent to prison, I would make contact with them and with their loved ones. Because I truly viewed my clients as friends, I did not merely feel justified in doing all that I could for them. Rather, I felt a strong desire to do as much as I could for them.

Thus, it is critical for those of us who need to exercise empathy to realize that our clients must be evaluated by looking beyond the crime with which they are charged, and to gain insight into the often difficult, impoverished, and painful life that preceded the commission of the alleged offense, or the desired service needed. If a lawyer maintains a distance from her client, she might overlook the humanity of her client, the positive attributes, the background, which created the predicament, and the multiple needs that transcend the urgency of the current case.

The importance of empathy is that it provides us with the ability to hear complex, multi-vocal conversations from our clients. It also enhances our ability to interview and counsel clients, to aid and assist, and to negotiate their interests, and at the same time to provide the support that is urgently needed. Empathy also improves one's ability to solve problems, to better assess the goals and objectives of individuals, and to integrate them into the evaluation of solving client's problems.

Like St. Peter, who served as an advocate for the disenfranchised in the early Church, Peter's work reflects that deep sense of empathy. His calling can also be measured by a particular scripture I often read when I wonder why we do this work. The scripture that is appropriate for today comes from the *Book of Romans*, the twelfth chapter, verses one through twenty-one:

A. CONDUCT IN RELATION TO GOD

I Beseech you therefore, brethren, by the mercies of God, that ye

present your bodies a living sacrifice, holy, acceptable unto God, *which is* your reasonable service.

2 And be not conformed to this world: but be ye transformed by the renewing of your mind, that ye may prove what *is* that good, and acceptable, and perfect, will of God.

B. CONDUCT IN RELATION TO THE CHURCH

3 For I say, through the grace given unto me, to every man that is among you, not to think *of* himself more highly than he ought to think; but to think soberly, according as God hath dealt to every man the measure of faith.

4 For as we have many members in one body, and all members have not the same office:

5 So we, *being* many, are one body in Christ, and every one members one of another.

6 Having then gifts differing according to the grace that is given to us, whether prophecy, *let us prophesy* according to the proportion of faith;

7 Or ministry, *let us wait* on *our* ministering: or he that teacheth, on teaching;

8 Or he that exhorteth, or exhortation: he that giveth, *let him do it* with simplicity; he that ruleth, with diligence; he that showeth mercy, with cheerfulness.

C. CONDUCT IN RELATION TO MEN

9 *Let* love be without dissimulation. Abhor that which is evil; cleave to that which is good.

10 *Be* kindly affectioned one to another with brotherly love; in honour preferring one another;

11 Not slothful in business; fervent in spirit; serving the Lord;

12 Rejoicing in hope; patient in tribulation; continuing instant in prayer;

13 Distributing to the necessity of saints; given to hospitality.

14 Bless them which persecute you: bless, and curse not.

15 Rejoice with them that do rejoice, and weep with them that weep.

16 *Be* of the same mind one toward another. Mind not high things, but condescend to men of low estate. Be not wise in your own conceits.

17 Recompense to no man evil for evil. Provide things honest in the sight of all men.

18 If it be possible, as much as lieth in you, live peaceable with all men.

19 Dearly beloved, avenge not yourselves, but *rather* give place unto wrath: for it is written, Vengeance *is* mine; I will repay, saith the Lord.

20 Therefore if thine enemy hunger, feed him; if he thirst, give him drink: for in so doing thou shalt heap coals of fire on his head.

21 Be not overcome of evil, but overcome evil with good.

In addition to Peter's spirit of empathy, there is also a commitment to the underdog. And in pursuing the commitment to the underdog, not only has Peter done so with zealously, but with a high degree of confidence. Indeed, I might say that Peter goes beyond confidence. He is one arrogant son-of-a-bitch, and I love him for it. Why? Because I am one arrogant son-of-a-bitch. Let me give you a taste of that arrogance by reminding you of Peter oratory before all of the graduates of Harvard University in 1992.

Salutation: Mr. President, members of the Faculty, Honored Guests, Fellow Graduates, Beloved Sisters and Brothers of the School of Law:

As part of a course I took this semester at the Law School, I recently made a speech in court in which I was aggressive and argumentative, utterly convinced of the rightness of my own opinion, and absolutely incessant about explaining why my position was the only correct one. Though praised by my teachers and quite successful before the judge, those are precisely the qualities my family and friends have been criticizing in me for years!

At that moment I realized that I have long harbored the misconception that education is the systematic replacement of vice by virtue. If three years at Harvard have taught me anything, it's that that is not true.

More often than not, education consists not in reconstructing ourselves by eradicating our vices, but in learning how to deploy those vices for our own good and for the good of the communities in which we live.

So, today, I would like to talk about three vices with which this community is afflicted: arrogance, contentiousness, and a sense of entitlement, and how we might use those vices for the service of others.

First, arrogance. Talking about arrogance at Harvard is like talking about Catholicism at the Vatican. So pervasive is the reality that one hesitates to comment on it. Nevertheless, given my theme, I cannot help but observe that this is a place marked by an astonishing degree of institutional, and dare I say it, personal

arrogance. And perhaps with good reason. For though Yale may take consolation in silly little surveys done by *US News and World Report*, we all know that Harvard remains the undisputed cultural icon of American higher education.

Now, some might counsel you to humility. But I will not.

Rather, I say use that arrogance! Take that sense of confidence and self-esteem, which Harvard has helped instill, and employ it to comfort the afflicted and afflict the comfortable. None of us, no matter how radical our politics, will deny having attended this institution. The Harvard name does carry with it some intrinsic social capital. So spend that capital on behalf of those of whom this society does not listen and for whom this society has very little regard.

Which brings me to my second point, contentiousness. In the Koran, there is a saying: A disagreement in my community is a sign of God's generosity. By that criterion, surely we are God's chosen people! Never have I lived in a place where so many diverse opinions are so strongly held and so well articulated. From strategies for diversifying our faculty to questions of human sexuality, we are ever engaged in an argument. This is as it should be. Rather than counseling you to be less confrontational, I say, go speak your minds!

Only the people who believe in the importance of deeper understanding, even apart from wider agreement, are willing to engage in such contention. Only those who have grown accustomed to advocating for a different social vision will be up to the task of reinvigorating popular discourse and articulating genuine political alternatives for their community.

This leads me to my third and final point. It occurs to me that one of the reasons for our arrogance and contentiousness is that, on some deep level, each of us believes that he or she is, in the words of Bruce Springsteen, "Born to Run:" run businesses, run academic institutions, run the whole damn world! We have a vision of the way things ought to be and a sense that, if given the chance, we could help make them be that way. This is what I mean by a sense of entitlement, the experience, which Harvard has helped cultivate, of ourselves as *actors* in the world, people who make choices about our lives and, if we are to be honest, about the lives of others.

Of the three vices, this is by far the most dangerous and yet the most important for us not to lose. The organization of material resources and human community is an essential part of governance. And many of you will govern, either in public office or as leaders in your respective professions.

So today, at commencement, as we leave Harvard, my last bit of

advice is that we embrace the responsibility to use what we have learned. Yes, even the vices to the advantage of those whom I once heard described as without a voice and without choice. In that way, we can redeem what is worst, and make the most of all that is best, about a Harvard education.

Even today I recall Peter's speech with pride and humility. Peter accomplished his three goals, and had the desired impact he predicted. The young graduates were beside themselves, applauding wildly. The faculty and administrators were stunned, wondering how could such a malcontent slip through their vetting process? The parents, many of them Harvard alumni, were bewildered, wondering how someone like Peter was ever admitted to Harvard Law School. If they were to ask me, I would offer the true answer: Harvard has raised its standards since they were admitted!

Peter's speech, however, reminds me of how his values reflect those of so many other great leaders like Thurgood Marshall, Charles Hamilton Houston, and A. Leon Higginbotham, Jr. Thurgood Marshall was often asked about his philosophy about the law, and his, like Peter's, is an inspiration to me. Thurgood Marshall said, "It's my job to do what's right, and wait for the law to catch up with me." In fact, by winning twenty-nine or thirty-two cases before the Supreme Court, litigating the successful *Brown v. Board of Education* case, and serving as the first African-American on the U.S. Supreme Court, Thurgood Marshall set the standard.

Charles Hamilton Houston was even more eloquent and explicit in his view about the role of lawyers in fighting for justice in America. He said that, "You were either a social engineer or you are a parasite. There is no in-between."

A. Leon Higginbotham, Jr., talked about the important role that lawyers must play in changing the face of America. When he was challenged by defendants in a civil rights case on whether he could be fair as a black man, Judge Higginbotham did not grant their request for recusal, but wrote a seminal opinion stating that he could be black and fair at the same time. Denying the defendants refusal motion in the civil rights case, Judge Higginbotham stated:

I can see that I am black. I do not apologize for that obvious fact. I take rational pride in my heritage, just as most other ethnics take pride in theirs. However, that one is black does not mean, ipso facto, that he is anti-white; no more than being Jewish implies being anti-Catholic or being Catholic implies being anti-Protestant. As do most blacks, I believe that the corners of history in this country have been lined with countless instances of racial injustice.

Peter is not only a saint, but he is also a dreamer. He has big

dreams for our nation and particularly for those among us who lack power, privilege, and access to justice. His dream is to make sure that even the least of us is included in America's opportunities. His dream is much like that of the great African-American poet Langston Hughes. Langston Hughes poetry gives us the right messages to embrace the wonderful spirit of this public interest lawyer, Peter Cicchino, and offer us direction in the struggle for justice in our land.

There is a dream in the land
With its back against the wall
By muddled names and strange
Sometimes the dream is called.
There are those who claim
This dream is theirs alone—
A sin for which, we know
They must atone.
Unless shared in common
Like sunlight and like air,
The dream will die for lack
Of substance anywhere.
The dream knows no frontier or tongue,
The dream no class or race.
The dream cannot be kept secure
In any one looked place.
This dream today embattled,
With its back against the wall
To save the dream for one
It must be saved for All
Our dream of freedom!

Peter, it is your role as a dreamer, and as a guardian of justice, that will not only force us to keep the dream alive, but to capture for ALL! Thank you.