USF School of Law  
Fall 2021 – First Assignment

Course:  
Criminal & Juvenile Justice Clinic and Racial Justice Clinic

Professor:  
Lara Bazelon

Course Materials:  
Please reference the booklist on the USF Law Registrar’s Course Resources page here.

First Assignment:  

Class 1: 8/23, Storytelling Exercise, Overview of Case Theory, and Fact Development

Readings/Assignments:

● Watch Last Week Tonight with John Oliver: Public Defenders, https://www.youtube.com/watch?v=USkEzLuzmZ4

● In addition, please prepare for the in-class storytelling exercise (assignment posted to Canvas).

● State v. Benson (all documents posted to CANVAS).
  o Affidavit for Probable Cause
  o Information
  o Jury Instructions 7, 8, 9, 10, 20
  o Statement of Christy Schmitt
  o Statement of Donald Brooks
  o Statement of Leon Benson
  o Statement of Dakarai Fulton
MODULE DESCRIPTION

Storytelling is the most important part of being a lawyer. Telling a compelling story is the key to advancing the interest of your clients. It is important for the story to be honest, complete, and humanizing. It is not enough to recite the facts and the law; you have to make your case by fashioning these elements into a narrative arc that captivates and persuades your audience.

In this class, you will practice your storytelling skills by telling a story that is personal to you. Your story should be approximately five minutes long. It must have a beginning, middle, and end. The story you tell should be personal in that it is indicative of who you are or a life lesson you have learned but also a story you can share without making you feel overly exposed and vulnerable.

The class will also include an overview of next week's class, which focuses on Case Theory and Fact Development. Case Theory and Fact Development are the key ingredients to the story you will tell about your client.

Case Theory is the "elevator pitch"--what you would say to a stranger in an elevator about your client's case. For example, "This case is about an innocent teenager convicted of armed robbery and sentenced to die in prison. He had an alibi but his lawyer was so incompetent he failed to present it. Because the Constitution guarantees everyone the right to a competent lawyer, I am trying to prove that my client's fundamental right to counsel was violated and that his conviction should be overturned."

What does this elevator speech contain? The applicable facts stated in a way that will grab the person's attention--"innocent teenager" "sentenced to die in prison"--and the applicable law explained--"right to counsel" "Constitution" "violated"--in a way that a layperson can understand.

Fact Development is the investigation you need to undertake to prove your case theory. Let's return to the elevator pitch. The fact development in this case will require proving that (1) the attorney's performance fell below objectively reasonable standards and (2) the deficient performance prejudiced the outcome. Here, the client had an alibi.

Tracking down the alibi witnesses and getting their sworn statements, uncovering other evidence to corroborate the alibi, looking through the record to determine what else the attorney failed to do, and attempting to get the attorney to admit the failings are all part of fact development.

In preparation for our second class, you will review materials from a different wrongful conviction case, State v. Benson. As you review these materials, begin thinking about your case theory and develop a fact development plan.

MODULE LEARNING OUTCOMES

• Telling your clients' story in a concise compelling way
• Delivering your story to an audience in a way that is clear, interesting, and thought provoking
• Incorporating feedback on your presentation
• Improving your oral advocacy skills
• Engaging yourself as a listener and critical feedback provider in the stories of others using empathy, respect, honesty, and thoughtfulness

Additional Notes: