A Letter from Appalachia

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Abstract
The author describes a sabbatical spent working with the Appalachian Research and Defense Fund of Kentucky and volunteering as an adult literacy tutor. She describes the difficulties that face many people in that area who are in need of legal action and representation, and notes the importance of funding for legal aid for the poor.

Keywords
Kentucky, Appalachian Research and Defense Fund of Kentucky, Appalred, pro bono, legal practice, legal aid

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A Letter from Appalachia

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A Letter from Appalachia

By Deborah A. Schmedemann

THE RECENT swearing-in ceremony bore little resemblance to my first, a mass swearing in of hundreds of new Minnesota lawyers in 1980. This time, August 13, I was the only lawyer sworn in — although I had quite an entourage. The setting was the office of Justice Janet Stumbo of the Kentucky Supreme Court, in Prestonsburg. It’s a town of 4,500 and the county seat of Floyd County, population 45,000, one county from the West Virginia border.

I solemnly swore that I would support the U.S. Constitution and the Kentucky Constitution, that I would be “faithful and true to the Commonwealth of Kentucky,” and that I would faithfully execute, to the best of my ability, “the office of Limited Practice of Attorney at Law.” I also swore that I “have not fought a duel with deadly weapons within this State nor out of it” and that I had not “sent or accepted a challenge to fight a duel with deadly weapons, nor... acted as second in carrying a challenge, nor aided or assisted any person thus offending.”

With me were my husband, Craig Bower, and our two daughters, Mary and Karen Bowmann. We are spending a year in Kentucky, taking a family “service sabbatical” from our Minnesota lives. For a year, I am a volunteer adult literacy tutor and lawyer with the local legal aid office, Appalachian Research and Defense Fund of Kentucky, known as “Appalred.” Hence the limitation of my license to legal aid work.

Appalred has 11 offices in a region in eastern Kentucky that is twice the size of New Jersey. It’s a poor region. In 1989, over a quarter of the families here lived below the poverty line, compared to a national figure of one in 10.

Appalred was founded in 1970 by John Rosenberg, a legend in his community for his ceaseless and wide-ranging efforts to improve the quality of life in eastern Kentucky. (He was profiled in the June 29, 1997, New York Times Magazine). Appalred’s administrative offices are in Prestonsburg. Four lawyers and staff there serve Floyd County and several surrounding counties.

In an attempt to be faithful and true to the Commonwealth as a legal aid lawyer, I’m splitting my time between divorce cases and other types of cases — and avoiding duels. The typical divorce case involves child custody, domestic abuse, or both.

In a consumer case I worked on, a landlord shut off the tenants’ electricity. In another, a check-cashing business charged fees amounting to over 500 percent annual interest. I have worked on briefs for an employee terminated without the procedures called for in the employment contract and for a mother who sued the government after her son drowned in a clogged and undersized culvert that state mining inspectors should have corrected.

In 1996, Appalred and its pro bono panel handled over 5,000 cases, comprised of about 2,000 family cases, 1,200 welfare cases, and the remainder involving consumer, employment, housing, and other matters.

In my three months of practice here, I have been struck by two attributes of the legal community: how close are the ties among lawyers and how loose are the links between clients and lawyers.

As for the first, according to the Kentucky Bar Association, there are 96 lawyers in Floyd County. Nearby counties have as few as 11. Everyone seems to know everyone else — not just their names and practices, but also their families and their pasts. You run into each other at lunch, walking down the street, at your children’s soccer games or back-to-school nights, at community events.

In contrast to the close ties among lawyers is the looseness of the link between lawyer and client in many — though not all — Appalred cases. Even, or perhaps especially, in a small rural town, lawyers and legal aid clients travel in different circles, defined by income, education, and social class. I have been struck by how much we must strain to communicate with each other.

It’s not easy for me to get messages to some of my clients, or for them to get messages to me. Appalred’s clients are poor, of course. Many are disabled, responsible for young children, limited in education and employment skills, grappling with domestic abuse. Many clients don’t have a phone, because they can’t afford one, or because
they wish to avoid calls from creditors or abusive spouses. Many clients move while their cases are pending, because they can’t afford the rent, because the housing is seriously substandard, or because they need to escape abuse within the home. So, many use post office boxes rather than mailing addresses, yet they may not pick up their mail for various reasons. For many, coming to Appalred is difficult, as there is no public transportation up into the hollows where they live, and cars and gas are expensive on an income of a few hundred dollars a month.

Even when my messages reach clients, I wonder whether they have really registered. Some clients can’t read well enough to understand the words in a legal document. Even if the client can process the words, to fully understand most legal documents requires some awareness of legal process. For one not trained in the law, a petition for dissolution, a motion to Appalred is difficult, as there is no strong resemblance to one another. We try to talk through these documents, but I suspect and fear that many clients are under such stress when they see us that the words rush by them, less than fully comprehended.

It’s ironic that many legal rules rely on written notices to protect people from overreaching. Landlords must provide a month’s written notice before taking action to evict a month-to-month tenant. Lenders must disclose finance charges in writing. Similarly, the legal process relies heavily on the written word. I watched a family court hearing on a father’s failure to pay child support. The father was not present. He had been present at the previous hearing, at which he’d been told the date and time of this one. The clerk apparently had failed to send him a written notice. The commissioner decided that the father had not been properly notified and set the matter over to another day. Written procedures may serve the courts’ needs for efficiency and documentation, but more than once I’ve wondered whether they fit the lives of Appalred’s clients.

Lawyers and clients do, of course, come together from time to time to resolve pending cases. Motion hour in family court is one of those times. During a recent one, I watched the interactions. Clients sat behind the bar, alone or in duos or trios, in straight rows of long hard benches, facing forward. They waited silently, patiently or not, for their cases to be called. They stepped forward, beyond the bar, and spoke only when spoken to. The lawyers, meanwhile, occupied the area between the bench and the bar. Some sat quietly at lawyers’ tables or in the jury box. Most milled about, conferring with opposing counsel, revising draft orders, chatting with colleagues, sharing the morning newspaper.

The commissioner sat behind a raised bench. He alone could survey the room. He determined whether the tone of the hearing on a particular case would be light-hearted or stern. And, of course, he determined whether the papers the lawyers had brought forth would be signed.

If the clients I have served in my time here, burdened as they are by poverty and what makes them poor, are to be able to step forward and assert their rights within our legal system, they need lawyers to escort them into the close circle of the bench and bar.

According to a Louis Harris & Associates poll reported in the September 12, 1997, issue of Update (a publication of the National Organization of Legal Services Programs), 70 percent of Americans believe “federal funding should be provided to low income people who need assistance in civil cases, such as child custody, adoption, and divorce.” And 61 percent would support “spending a dollar and a half of taxpayer dollars per person a year to fund this program.”

Appalred’s John Rosenberg was quoted in the Lexington paper as saying that the House’s increase in funding was a “step in the right direction.” I am inclined to agree.

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Since we arrived in Kentucky, we’ve been asked many times whether Minnesota is really like it’s depicted in the movie Fargo. So also, many who don’t know Appalachia hold to myths about this region.

We have learned that the landscape is indeed dominated by hills that are rounded, thickly wooded, and shrouded in mist in the morning and evening. Yet the landscape also features a brand new 1,000-seat performing arts center and a sprawling community college. Coal trucks lumber up and careen down undulating mountain roads. So do Toyota Camrys, manufactured in Georgetown. Some people live in run-down trailers. Others live in mansions. Mansions and trailers often are side by side.

About half of the adults in Floyd County lack high school diplomas. But our older daughter is studying Latin in high school, and her fifth-grade sister is studying Japanese culture. Some people here watch chickens fight to the death for entertainment. Others watch The Sound of Music in the local outdoor theater or listen to jazz or country music at the Mountain Arts Center. Many people are from large, extended families who have lived here for generations — among them the Slones, the Tacketts, and the Stumbos. Yet we’ve also met New Yorkers and Bostonians, Iowans and Iranians, Jews and Quakers.

We are enjoying our time with all of them. ☝️