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What I Learned From My Clients [Speech]

Timothy Kaine

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Text of Senator Tim Kaine's Diploma Ceremony Remarks

By Senator Tim Kaine

May 15, 2016

The following address was given to J.D. and LL.M. graduates at the Law School's Diploma Ceremony on May 15.

"What I Learned From My Clients"

Good morning! I am honored to be with you today, celebrating this important day with William and Mary law school graduates, faculty, family and friends. It reminds me of my own 1983 law school graduation at Harvard, the young upstart law school that opened its doors 38 years after the College of William and Mary commenced legal education in the United States.

I remember my graduation day as a whirlwind of family, friends and fun, all accompanied by a sense of relief, gratitude, exhaustion and, especially, accomplishment. You haven't chosen an easy path. And there are new challenges ahead—preparing for the bar exam, possibly moving to a new town, starting into legal practice. So with hard work behind you, and hard work to come, take this time to fully appreciate what you have accomplished.

And your sense of accomplishment should not just be limited to your own personal achievement. As a class, you have already started to show why law is considered a profession, not just a job. Yesterday, 72 of you were recognized at an awards ceremony for your pro bono legal service during your time here at William and Mary. You've led Thanksgiving Basket food drives, registered bone marrow donors, provided more than 17,000 hours of pro bono service through [eight clinics and] the Virginia Coastal Policy Center, established an innovative partnership with the Virginia Institute of Marine Science to better prepare our state for sea level rise and staffed the nationally-known Puller Clinic that helps veterans, active duty military and their families on the many legal issues they confront. This instinct to use your legal training to help others should be a foundation for your legal careers.

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I was tempted to offer remarks today about some of the many legal issues confronting



our nation. But as I sat down to write these comments, my thoughts kept moving back from the issues of the day to the time when I was just like you, starting out on an exciting, new and uncertain path to practice law. After a one year judicial clerkship, I took the Virginia bar exam, moved to a new city, got married and started my legal career. All in the space of 4 months!

It was time of such transition. And, despite all my undergraduate and legal education, I still had so much to learn. And so do you. Much of your learning will come at the hands of the lawyers and judges you work with in the starting phase of your legal career. Working with people you care about, and who care about you, will be one of the most important factors in whether you enjoy this great profession. And I could do a whole speech about what I learned from the lawyers I practiced with during my 18 years of active law practice. But instead, I want to talk to you about what I learned from my very first clients.

I had hundreds of clients over the course of my career—individuals, companies, local governments, non-profit organizations. But you'll never forget your first clients, those who come to you when you've barely hung your law license on your office wall. And I had three unique clients in my first year in practice who taught me a great deal.

There was Lorraine. She was a young woman just my age who was referred to our firm by a local housing organization. In the same way that I had just moved to a new city and searched for an apartment to start a new job, Lorraine had also come to Richmond to work and she looked for an apartment. She saw a newspaper ad for a place in a neighborhood she liked, called and found the apartment was vacant and made an appointment to go visit on her lunch hour. When she showed up for the visit an hour later, she was told that the apartment had just been rented. She was flabbergasted as she went back to work and thought that maybe the fact that she was African-American made the owner change his mind. So she asked a Caucasian colleague at work to call later the same afternoon and ask about the apartment. And the landlord told her it was still available.

I drafted my first lawsuit for Lorraine, a federal fair housing action against the owner of the apartment. And with the testimony of her co-worker, the case was a slam dunk win. We settled it shortly after the case was filed. And then suddenly, I was the Virginia expert on fair housing law! It was the heart of my legal practice until I stepped down from my firm to become Lieutenant Governor in 2002. But what I



remember from representing Lorraine was the fact that we were so similar, but so different.

We were both about the same age. We were both embarking on the first days of our professional lives. And part of that is finding a place to live. But my experience was a positive and hers was a negative. And as I listened to her, I understood a few things in a way I had never before understood. First, where you live, your home, is truly an extension of who you are. And if you are blocked from living where you want to live, that cuts to the very core of your person. And second, Lorraine's clear mistreatment because of her skin color made her anxious about whether it would happen again. I've gone through life experiencing ups and downs but I've never been burdened with the worry that people will treat me badly just because of my skin color. Once you've experienced that in the way Lorraine had, it's hard to escape the memory, and it's really hard to shake the worry that it may happen again. I didn't know this as a 26 year-old lawyer, but Lorraine taught me that and I've never forgotten it.

A few months later, one of our senior lawyers bought James and Diane into my office. They were a just married couple. Diane had a mental disability and was living with a distant relative who was also her legal guardian. Diane married James against her guardian's wishes and had come to the firm because her guardian had filed suit to annul the marriage on the ground that she did not have sufficient mental capacity to marry. And so I represented Diane in the lawsuit in order to preserve her marriage.

It's hard to imagine that we would deprive someone of the joys of marriage because of her mental condition. But that was what Diane's guardian was trying to do. So I fought the case hard and was able to get the guardian's suit dismissed so James and Diane could stay together. In the process, I discovered the reason behind the guardian's objection to the marriage. She had been taking Diane's disability payment checks for years and the wedding threatened monthly income she had come to depend upon. The case ended up in the US Attorney's Office and the guardian was prosecuted for taking these funds from Diane. What started off as a marriage case in Richmond Juvenile and Domestic Relations Court ended up as criminal trial against the guardian in federal court.

I learned a lot from Diane. As a newly-married guy, I learned a deep lesson about the sanctity of marriage and the foolishness of trying to keep two people in love apart. I learned about the awesome responsibility of the practice of law. Whether Diane's marriage survived or not depended upon my work. And I also learned a critical lesson



that served me well throughout my career-whatever the issue seems to be at first, look deeper. The marriage lawsuit, ostensibly filed to protect a mentally disabled person, was really the guardian's effort to continue the subjugation of Diane and the theft of her disability payments. Again and again, in law and life, the surface appearance is so different than the underlying reality. Representing Diane taught me that.

My third client was Rick, an inmate on Virginia's death row. He had been convicted of murder and sentenced to death. He had exhausted all his direct appeals. He had a volunteer lawyer working on a habeas corpus case for him and a forthcoming hearing in the Virginia Supreme Court was scheduled. And suddenly, without any warning or notice to Rick, his lawyer moved to another state. So he now had a Supreme Court argument scheduled and no lawyer. And there was a frantic effort to find a new lawyer to volunteer to take the case.

Someone in Richmond knew that I was a lawyer and was opposed to the death penalty. And so they called to see if I would assume Rick's representation. I had my license all of 6 months and my quick review of the circumstances told me that the case was a complete loser. I was tempted to beg off on the grounds that Rick was a bad person or I was too new to the bar or there were no issues in the case that were likely to be successful or taking the case might be really unpopular with my colleagues or others. But I had some nagging feelings too. Don't I believe that someone facing capital punishment is entitled to legal counsel? When no lawyer in Boston would represent the English soldiers who fired on colonists during the Boston Massacre, John Adams stepped forward and volunteered to defend them on the belief that no one should face death without the benefit of an attorney. If I'm opposed to the death penalty, shouldn't I have some obligation to act in support of my beliefs? I couldn't suppress those questions so I agreed to take the case.

I represented Rick for about 2 1/2 years until he was executed. It was exhausting work and my initial feeling was correct—there were no legal issues that were ultimately going to get him a new sentencing or trial. He had committed a horrible crime and the laws of Virginia, whether I liked them or not, allowed a jury to impose the penalty of death. But I learned so much from working with Rick on this case.

One day, about 4 months before his execution date, when I still had pleadings to file but also knew in my heart that they would be unsuccessful, I just ran into a mental block while sitting at the computer. The knowledge that we would lose, and that I



would be sitting with a client on death row as he was prepared for his own execution, just stopped me in my tracks and made me unable to do anything on his case for a few days. I had work to do, and the case was life or death, but I just couldn't make myself face the reality of it. And then I remembered a beautiful line from Scripture, from Second Corinthians, "in my weakness is my strength." I had heard that verse preached many times, but never understood it, never felt that it applied to me. But now I did understand it, and understood that you can't flee from your weaknesses but have to embrace and own them as a natural part of being human. I was afraid. But somehow, just admitting that to myself helped me jump back into the work and crank out all the pleadings and advocate at all the hearings right up to the last day. And this is a lesson that I come back to again and again in my life. Fleeing from your weaknesses or pretending that you don't have them makes you weak. But acknowledging your weaknesses, which can be very hard to do, in one of life's great mysteries, can make you strong.

On the day that Rick was executed, I sat with a priest and a friend of his just outside his cell for hours just to talk and share his last meal so he wouldn't be alone. It was a painful and surreal experience. Let's face it—every human has a natural instinct to avoid pain and painful situations. I didn't really want to be there but knew I was supposed to be there. If nothing else, I wanted my client to know that I did all I could and never gave up on him. He hadn't experienced that very much from the people in his life.

Years later, I became Mayor of a city with too many homicides. I had to go to crime scenes and funerals and support group meetings of families who had lost a loved one to violence. And then when I was Governor, and we suffered the worst shooting in the history of the United States when 32 students and faculty were murdered at Virginia Tech in April 2007, I entered into an immediate and long-lasting set of relationships with the family members whose loved ones had been killed or injured. These were painful experiences. But because of what I learned in representing Rick, that an important part of being fully human is just being able to accompany someone else in difficult times. I knew what I needed to do and was able to find the strength to do it. I'm not sure I would have known that were it not for my client.

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Over the course of my 18 years in law practice, there were so many others. Family businesses fighting to survive, local governments working to solve their constituents'



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problems, regular folks who just wanted to get a fair shake in their dealings with their employers or neighbors or public officials. Most of the cases weren't so dramatic as the three I described. But I learned from everybody along the way. And that's what I want to say to you today.

You have entered a profession that will give you a most unique vantage point in understanding people. During your careers, most of you will have clients who place their most cherished concerns—family, freedom, financial well-being, life, happiness—into your hands for safekeeping. One of your school's namesakes, Justice John Marshall noted this toward the end of his life: "The judicial department comes home in its effects to every man's fireside; it passes on his property, his reputation, his life, his all." That is a tremendous honor and a tremendous responsibility. It will sometimes feel like a tremendous burden. But it is what makes this profession so special.

And remember that it is not just what you can do for your clients. My clients taught me lessons that I still reflect on today, long after I gave up law practice because of the demands of full time public service. They changed me as a lawyer and they changed me as a person. And they will change you too.

Good luck and Godspeed.