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“If a lawyer who represents himself has a fool for a client, how much more true it is if he’s not a lawyer. We have all these rules on the litigation superhighway. But what if you can’t drive a car?”

*-Former Maryland Attorney General Stephen H. Sachs before the Court of Appeals regarding the right to counsel in contested custody cases*

There is no right to counsel in civil legal matters. Formula One racecars and monstrous Humvees race banged-up bicycles and puny pedestrians, or worse, motorized wheelchairs and unstable walkers, on the long, pot-holed road to justice. While in children’s tales the tortoise beats the hare, the little engine that could climbs the mountain, and Herby overcomes all odds, for many fellow citizens the civil legal system is a race they cannot win. An experienced lawyer can easily outmaneuver the uneducated layman in the winding path of the civil courts. Complaints, motions, pleadings, discovery, petitions, and affidavits are obstacles that sports cars and sports utility vehicles skillfully avoid or powerfully overcome, but that slow down or disable even the best cyclists and power walkers.

Yet, the issues the civil legal system adjudicates are as important to the parties as incarceration was to Mr. Gideon nearly a half century ago. The parties race for custody of minor children, for just divorce settlements, for access to health care and disability benefits, for wages they earned, for rectification of consumer fraud, for identities stolen from them, for remedies to predatory lending, and for access to English-speaking institutions. The purses include involvement in their children’s lives, new sustainable second lives after domestic violence, life-saving treatments, wage income for food, products worth the price paid, their good credit history, the homes paid for with their labors, and education and opportunity for themselves and their children.

Civil legal services organizations are the public buses that pick up and pile in stranded bicyclists and stalled pedestrians, desperate hitchhikers on their journey for justice. The buses neither look like nor are high performance, overpowering vehicles, but they can transport travelers along the highway of litigation towards their stops. Overworked and underserved, these buses tirelessly repeat their routes.

The Maryland Legal Aid Bureau provides civil legal services to indigent residents. Established in 1911, in its first year it handled 243 cases in Baltimore City. In 2005 it assisted over 47,000 individuals with their cases in Baltimore City and the 23 Maryland counties. The staff provides legal services in numerous substantive

areas, including family, housing, public benefits, education, elder, employment, consumer, and bankruptcy law. In many counties, the Bureau also represents children in need of assistance (CINA) and provides pro se assistance in family law self-help centers (FLSHC).

I worked in the Anne Arundel County office, the second largest in Maryland. Ten full-time attorneys, five full-time legal assistants and support staff, and numerous part-time volunteers serve in the office and help to assist over 8,000 county residents per year. The office focuses on family, housing, public benefits, elder, and CINA law, and also staffs the family law self-help center located in the Anne Arundel County Circuit Court complex.

The attorneys in the Anne Arundel County Legal Aid office are fond of joking that they are a full service organization, that if a streetlight breaks over a weekend, members of the organization can and often do spend the morning in court handling the CINA and custody consequences of an unsupervised school-age child cut on the glass, the lunch hour on the telephone with the Social Security Administration initiating a disability or unemployment case for a client who slipped and fell in the dark, the afternoon at the FLSHC triaging and then interviewing a client seeking a divorce spurred by adultery discovered when neighbors rushed to their windows to see what glass broke, the evening researching to secure the wages of the electric company repairman tasked with fixing the light, and the night advocating for more streetlights on behalf of a community association at a monthly meeting of public works officials. Like many jokes, this one is funny because it rings true.

While my duties as a legal intern did not completely map this full-service character of Legal Aid, they encompassed most of the diverse range of areas and services covered by the office. I triaged and assisted clients presenting their problems at the pro se office, aided in client interviews and other communication, drafted motions, responses, complaints, and answers, researched public benefits, civil procedure, and administrative law, wrote legal memoranda on appealable and reviewable issues, obtained evidence and organized cases for trial, observed hearings, trials, and settlement meetings, and prepared public policy documents. My work pushed me to understand and apply the definition of disability in Social Security Administration regulations, to learn enough family law and civil procedure to assist clients with unbelievably complex domestic situations in the pro se office, to navigate public housing law, to engage and criticize the custody and visitation rights of mentally

disabled parents, and to master complex energy legislation affecting our clients. In an overworked and understaffed office, I was fortunate to be able to function much like a normal staff member.

Some of the most challenging aspects of the internship involved the staffing of the family law self-help center (FLSHC). Citizens visit the center in order to obtain forms and legal assistance for their family law claims. Cases run the gamut from domestic violence to name changes. It was in assisting individuals in procuring, completing, and submitting the proper complaints, answers, responses, motions, and financial statements that I gained a practical grasp of the procedures of the Maryland court system and of the substantive family law of Maryland and other states. It was also by way of a memorable case that originated in the FLSHC that I was exposed to several insights that I hope will remain with me long after I forget the details of the family and procedural law of Maryland (unless, of course, I end up practicing in Maryland!).

First, an abridged version of the facts: John (names have been changed), the biological father of a toddler named Emma, came into the FLSHC with Emma and asked for help with her situation. Emma usually lives with her biological mother, Tanya, Tanya's boyfriend, Fred, and Emma's half-brother, baby Joey, in a house frequented by numerous unemployed adult men who drink, smoke, abuse drugs, and generally loiter around Tanya's home, which is owned by Tanya's mother. The previous night around two in the morning when Tanya was out, Fred became angry with baby Joey and shook him to death. The police ruled the death a homicide. John, who was supposed to visit his daughter Emma at nine the same morning, arrived to find Tanya's home cordoned off as a crime scene. He rushed to the hospital to see if Emma was hurt. After informing the Social Services worker on the scene of his paternity of Emma, he took Emma back to his home, where he lives with his mother. John sought temporary emergency custody and unsurprisingly succeeded in this pursuit on the same day.

Eventually, Tanya pursued an end to the temporary custody of Emma by John. Legal Aid decided to further screen the case based on the information elicited in the family law self-help center. The case seemed fairly clear: is it in the best interests of the child to reside with Tanya, whose judgment allowed her to become involved with a drug-abusing baby killer, or with John? The problem, of course, as we were soon to find out, was that the real John was different from the John who presented himself at the FLSHC.

This complication reared itself during the client interview that occurred a few weeks later, in which I assisted. As we interviewed John, we discovered characteristics that made him less attractive as a legal custodian for a toddler. He lived with his mother because he had no regular source of employment, other than landscaping and occasionally selling marijuana. He did not drive, nor did he plan to learn to drive. At twenty-five years old, he was romantically involved with a nineteen year old woman, and had been for over three years. He routinely left Emma in the care of his mother, so that he could go out with his friends to drink and smoke illegal substances. And, much to our dismay, none of these behaviors seemed to trouble him in the slightest. When we told him that he should try to abstain from using illegal drugs while in custody of Emma in order to help his case with a judge, he informed us that he had in fact “stopped using marijuana for a long time, since Monday” (it was Thursday). Tanya’s home did not appear as troubling as it did before this interview. Nevertheless, we took the case and it was anti-climactically resolved in court for our client with the help of a Social Services custody recommendation in his favor.

As the narrative indicates, the case was not a lengthy or legally difficult one, nor was I particularly involved. I participated in several very legally complex cases that spanned beyond the summer I worked at Legal Aid, and I contributed much more through the tasks mentioned above to most of my other cases. Yet, this case brings to light several key themes I take away from my summer experience, and is memorable for its clear illustration of these useful, albeit somewhat simplistic, lessons.

First, the case confirms that a situation rarely affects one or even a few individuals, and its effects may not be obvious or amenable to a simple solution. For Legal Aid this case was about John, but we could not help but be concerned about Emma. The conflict between their interests can create questions of legal ethics, but more importantly it demonstrates the sheer complexity of resolving problems in a world of sub-optimality. There simply was no best way to protect Emma: the choice was tragically between two evils. Second, the case highlights that the law, lawyers, the courts, and public policy cannot solve an individual’s problems. To paraphrase an infamous political argument: law does not solve problems, people do. No matter what we told John or what the law incentivized, John had to handle his substance abuse, unemployment, unhealthy

relationship, and low skill level. We could help, advise, even direct, but not solve. Paternalistic intervention does not work by itself. Social norms, or culture, also had a role beyond our, or the law's, power.

Third, the case intimated that justice in the legal system is only a band-aid, albeit an important one. A system that fixes broken homes, reconstructs destroyed relationships, secures disability benefits, wages, and employment, and assists consumers ex post is not only inefficient, but it is unethical when not combined with the pursuit of structural reform, through policy, culture, or other means, to create strong families, job skills, employment opportunities, and educated citizens and consumers on a societal level. The human cost realized between ex ante and ex post is too great. Social justice, and not more Legal Aid attorneys, is the long-term answer to the problems facing civil legal services organizations (although there will always be problems for Legal Aid in any society). Finally, the case verified that communities matter. Communities support individuals, both clients and advocates. Without a community, an individual is lost when disaster strikes. Without a community, an advocate is lost when tragedy overwhelms, as in the case of Emma. Without a larger community of individuals and advocates, both lose their sense of purpose and hope.

All of these experiences and insights have shaped my perspective as I entered law school this fall as a member of the Yale Law School Class of 2009. While I am not sure I am interested in pursuing further work with Legal Aid, or civil legal services in general, my experience this summer courtesy of the Liman fellowship has furthered my interest in public service lawyering assisting the less fortunate, whether in a prosecutor's office protecting the victims of violence in society, in a legislator or executive's office seeking social justice, in a non-profit exposing and/or ameliorating the evils we face, or in some other capacity. Furthermore, I have begun to appreciate that when working in the public interest one cannot avoid a sense of the tragic mixed in with the joys of helping individuals, securing justice, instantiating progress, and witnessing to solidarity. To all assisted and involved, the struggle always *seems* lost, for there is always so much more to be done. But, that realization is also, as I alluded above, part of the joy: struggling for solidarity in solidarity. This reward, one of the ultimate goods on this planet, one that is realized in one form in the process of seeking it in another, is perhaps one reason why Mr. Smith in *Mr. Smith Goes to Washington* proclaims, "Lost causes are the only ones worth fighting for." And, of course, all is *not* lost.