

Red Mass Dinner Remarks

October 4, 2021

The Blending of Faith and Profession

Hon. Marc R. Kellams

Your Excellency, esteemed members of the federal and state courts, honorable public officials, distinguished members of the bar, and honored guests. It is a pleasure and an honor for me to share a few thoughts with you this evening on the blending of faith and profession. I have presented at both the Red Masses in Indianapolis and Ft. Wayne. I wasn't a bit stressed about this presentation until I realized yesterday that the Chief Justice would no doubt be in attendance. And, in addition, Justice Brent and Jan Dixon are here too. I try to follow the premise that "they may not remember what you say, but they will remember how long you talk!" And so, I will try and keep to the point.

Most of you probably know – but for those who may not - the celebration of the Red Mass originated in Europe sometime in the 13th century. It occurred annually and was scheduled to coincide with the opening of the judicial year. It was offered to invoke divine guidance and strength during the coming term of Court, and was celebrated in honor of the Holy Spirit as the source of wisdom, understanding, counsel and fortitude; these gifts of the spirit being essential in the dispensation of justice in the courtroom, as well as in the individual lawyer's or civil servant's office.

It is named the Red Mass because the clergy were vested in red, and the Lord High Justices were robed in brilliant scarlet. In the United States it has long been the custom for Catholic, Protestant and Jewish members of the judiciary and legal profession to attend the Mass, as well as other public officials, as has happened here this evening.

I have been a member of the bar for well over 40 years and was ordained a permanent deacon for the Archdiocese of Indianapolis in 2008. I thus have, through the circumstances of my choices, been forced to spend a considerable period of time reflecting upon the blending of faith and profession in my life; while respecting the separation of church and state. Many others before me have taken up this concept and so it is hardly a novel one. But it seems important enough to explore. The question I have

learned to live with without clear resolution is - whether I am a judge who is also a deacon, or a deacon who is also a judge?

This is not my first Red Mass. It was a beautiful liturgy by the way and indeed an honor to serve you, Bishop Doherty. I remember my first Red Mass in Indianapolis in 2006 and must confess that at first I felt a little awkward about it. This was before my ordination. The invitation I received invited me as a member of the judiciary to wear my robe. And although now that I better understand the purpose of that request – it did seem a little odd that I would wear a trapping of my civil office during a religious service. I would certainly never wear a vestment into my courtroom, and somehow that standard seemed instinctively to apply equally in reverse.

As the service began a federal judge refused to follow the cross in procession, and although I know her to be active in her faith, she stated simply, “Judges do not follow the cross, we follow the law.” Upon hearing that my awkwardness, if anything, increased. My exploration of the history of the Red Mass and a sense that I needed to explore the basis for my feeling of awkwardness has led me to at least a partial understanding that I will attempt to convey to you this evening.

Now just for the record I am unabashedly Roman Catholic. That fact has never been a secret. And I have spent the majority of my career as a member of the judiciary.

Keeping the two roles of judge and deacon separate has not been near the challenge one might think. When I don a black robe and enter a courtroom, I fulfill my duties as a judge. Except for a few extra pleas for mercy shortly after my ordination, and an article in the newspaper about my ordination that wryly suggested I buy a reversible robe – black on one side white on the other, it never comes up.

Deacons are visible while fulfilling their sacramental duties; serving at Mass, baptizing infants, witnessing weddings and participating in various roles at funeral and committal services. The true ministry of a deacon however is one of service. Acts Chapter 6 tells of the need of deacons to assist the apostles to serve the widows. Thus the first deacons were chosen to be of service so that the apostles could better fulfill their responsibilities. Each deacon has a particular diaconate vocation. Mine is currently to the

imprisoned. As the Coordinator of Corrections Ministry I help coordinate the many visitors to the 10 penal facilities (including the Federal Correctional Center in Terre Haute where the Special Confinement Unit (more colloquially known as death row) is located. As is true throughout the state, there are jails in every county. I accompany Archbishop Thompson as he visits up to four of these facilities a year. I provide training and solve problems. It is a very rewarding position and I am grateful that I am able to combine my experience and training in the law and my ordination to the diaconate in fulfilling the mandate in Matthew to visit those imprisoned.

I also organize an annual conference, the next one of which is this coming Saturday at Roncalli High School in Indianapolis. It is live and will be live-streamed and it is not too late to sign up at the Archindy Corrections Ministry page. Our keynote speaker this year is Dr. Christine Montross, a psychiatrist who works in prisons, and who has written a book entitled, *Echos in the Darkness: the Madness of American Incarceration*, which focuses on the dilemma of how those who are mentally ill most often end up incarcerated and not in a therapeutic setting where they belong.

So what does all this mean to you? How does this affect your faith as you toil in your professions? The Code of Professional Conduct for lawyers states in its preamble, [7]: “[In regard to professional responsibilities] a lawyer is also guided by personal conscience.” [9]: “Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living.”

That would be a sort of, “To thine own self be true” rule? Wouldn't it?

Lauren Robel, former dean of the Indiana University Maurer School of Law used to include in her welcoming speech to the freshman class the following and I quote:

“Advocacy has the same root as vocation---meaning a calling away from ordinary life, a summons from God to undertake a place of service to others. And advocacy shares its root term---vocare, meaning “to call”---with the word “voice.” The roots of the word “advocate” break open its true meaning: advocates give voice to the people they are called to serve, which has at its center a deep and awesome responsibility, as well as, at its best, a touch of the divine.”

What a wonderfully provocative challenge to the idealistic new minds of students preparing to embark upon a legal career. Think about how many of us would have benefited from such an instructive beginning – to contemplate that our advocacy would “give voice to the people we are called to serve” and that such service “has at its center a deep and awesome responsibility, as well as at its best, a touch of the divine.” I have to ask you – have you ever thought of your public service as a calling? And even further have you ever contemplated that the work you do has at its center a touch of the divine?

Thomas L. Shaffer, professor emeritus at Notre Dame, mused in his book *American Lawyers and their Communities* – “*We American lawyers learn to look at the community of the faithful, rather than from it. We stand in the courthouse looking at the church. We see the particular people, even when we claim to belong to it, from the point of view of the government. When we are able to change the place where we stand, when we walk across the street and look at the courthouse from the church, we notice a couple of things about the way the government in America regards the community of the faithful.*”

Is it as simple as that? Do we actually consider our public self and our private self as dual personalities in the body of one person, both secular and religious at the same time?

In his book *Faith and the Professions* he actually came to the conclusion that those who practice law had the responsibility to be moral teachers. Does the practice of law include some obligation to be moral instructors? Have you ever thought of your professional role in just that way?

James Wilson, first associate justice of the Supreme Court, once said, “*Man, fearfully and wonderfully made, is the workmanship of his all perfect Creator: A State, useful and valuable as the contrivance is, is the inferior contrivance of man; and from his native dignity derives all its acquired importance... A state, I cheerfully admit, is the noblest work of man. But man himself is the noblest work of God.*”

Are these words from the earliest days of our republic still true today? Are we in fact the “noblest work of God?”

Rabban Gamaliel, the son of Rabbi Judah ha-Nasi, said, *“Let all who work for the community do so from a spiritual motive, for then the merit of their fathers will sustain them, and their righteousness will endure forever.”*

For a long time I tended to look at my faith as a matter separate from my profession, as something that shaped my private life, something that I shared with family and others of like mind. But how is it that one is able to so abstractly divide a life? If we are being honest, most of us in public service are here for the simple and often stated motive that we want to be of service to others; that we want to share our talents for the betterment of humankind. And so it is that the lessons of our faith, even if never spoken, and certainly never out-rightly attributed – at least by most of us – are intrinsically and fundamentally a part of who we are, and thus of what we do and how we do it.

The Code of Judicial Conduct states in its preamble, [1]: “An independent, fair and impartial judiciary is indispensable to our system of justice. **Fair enough.**

A comment to Rule 2.2 states, [1]: “To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.” **Still, basic jurisprudence.**

But it goes on to say, “Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.” **That comment, it seems, hits a little closer to the heart of our discussion.**

And then it says, Rule 2.4(B): “A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.”

So does that mean that my faith cannot influence my judgment? Does it mean that I somehow have to wipe my internal being clean of all the influences of my life? Or does it mean that I cannot try to conform the litigants or my solutions to their problems in such a way that is personally, but not legally pleasing?

The Catholic Church is not just an organization I belong to. It is not just something I am or do for several hours every week. It is instead at the very heart of who I am and how I function. Now do not mis-understand, I’m not one to speak in religious terms, “Christ-speak” as I call it, dropping the Lord’s name in my comments, and I do not display my faith in a

professionally public way, or even in symbolic ways – and in fact I tend to distrust those in the profession who do. I choose instead to follow the instruction in Matthew, chapter 6, that says, *“Beware of practicing your righteousness before men to be noticed by them; otherwise you have no reward with your Father who is in heaven.”*

When I say that as a person I am not very judgmental most people laugh. A judge, not being judgmental seems a contradiction in terms. But it’s true. I don’t make judgments about people based upon who they are, how they dress or act, or even how they relate to me or to others. They are each individual children of God, each to be appreciated in their own way, even though some make that a very hard task to accomplish.

I have also never held the belief that my faith was to be used as a tool, never to be used as a mechanism for changing others, by judicial influence or worse by judicial fiat, into something I found more acceptable. Instead I have endeavored to look upon my faith as a way of influencing and changing the very essence of who I am, not only as a pathway to eternal salvation, but as a way of life; and that through my life I might serve as a positive influence to others. Heaven knows, how miserably and how often I have failed at that undertaking, but as Saint Teresa of Calcutta so gratefully taught, *“God does not call us to be successful, but to be faithful.”*

One day I did happen to get it right, when on my way out of the Justice Building I stopped in the jail lobby to chat with a young man whom I had run across many times in my court. A few days later I received a letter from him that told me of his conversion of faith. And in the letter he said that since his conversion he had noticed that people of God had a certain look in their eyes when he talked to them, and that he had noticed that look in my eyes the night I had stopped to talk with him in the jail. And then he asked me, “I just have to know, are you a man of faith?”

I was stunned. It is true that I wear a crucifix around my neck, but no one ever sees it, and I do have a deep and abiding faith in the Almighty, but I do not drop His name in conversation, and I do struggle daily to live my life according to the principles of my faith, but I do not preach to others, especially in a professional setting. It had just never occurred to me that somehow the person I had spent my life trying to become was evident; not by explicit word or dedicated deed, but in how I lived and in how I related myself to others. In some ways, this simple letter became a watershed

experience for me. Not that it changed somehow the way that I lived, but it caused me to recognize that the way a person lives is not only a testament to self, but is also recognition of the influence that faith has upon our lives.

So why is it that I felt a little awkward about wearing my judicial robe to a religious ceremony? Was it as simple as the ingrained notion of separation of church and state that caused my discomfort? Or did it emanate from my innermost desire not only to be impartial, but to appear impartial to others; that somehow appearing in church in my robes would expose some sort of bias. Or after all my years working in the field of judicial ethics, maybe I was just being super-sensitive? Maybe it is the product of all of those things, and in the end I'm not sure a bad thing. A little caution seems prudent in matters of faith and profession. Ultimately I haven't answered these questions. Maybe it is enough that I considered them, and caused some of you to consider them. Maybe it is enough that instinctively I knew that these issues were issues to be conscious of as I continue to weave my life into a tapestry of faith and profession.

Thank you for the opportunity to be with you this evening.