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Introduction to Socratic Method and the Irreducible Core of Legal Education

David Weissbrodt[†]

The *Minnesota Law Review* is publishing Professor Donald Marshall's speech in honor of his retirement from thirty-eight years of teaching at the University of Minnesota Law School. This speech was originally presented in 1994, when Professor Marshall was designated as the first and only Law Alumni Distinguished Teacher at the University of Minnesota. The speech distills Don's approach to teaching, which uniquely succeeds in engaging students in understanding and analyzing legal issues. During his remarkable career he was the best and most respected teacher in the Law School. Year after year, students voted him best teacher. He was designated teacher of the year more often than any other professor in the Law School's history. During his career he has offered seventeen different courses in about ten thousand class sessions to more than six thousand students.

When I first arrived at the Law School in 1975, I asked Don for advice as to how I should prepare to teach torts. Although our classes were generally scheduled for the same hour each day, during some school years I asked that the schedule be reorganized so that I could attend his classes and he could come to mine. I watched with admiration how every aspect of Don's teaching was the result of exhaustive preparation, careful design, and inspired performance. He planned every question and every aspect of the class, but he was always ready to modify that plan to meet the needs of his students. He principally used what he called the Socratic dialogue, but he also engaged students in role-playing exercises and, on rare occasions, brought

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his own perspectives to the classroom in the form of short lectures. He believed, and his performance in the classroom demonstrated, that active student participation results in more breakthroughs of understanding than any other teaching approach.

Don's teaching serves as a model for his students as they develop their skills of self-expression. He makes a tremendous effort to use the English language with precision and, if possible, with grace. He is engaging, humorous at strategic moments, and eloquent in presentation. He also embodies a commitment to professionalism, indicated by his thorough preparation, compassion, and respect for others. No professor prepares more thoroughly or meticulously for classes than Don Marshall. His students respond in kind; they always prepare for his classes because they do not want to let him down. He motivates students not only to study, but also to prepare fully for the matters that they will handle as professionals after graduation. By showing enormous respect for his students, and starting with the presumption that students are capable of the work, he achieves a delicate and compassionate balance between challenging his students and not abusing them at the same time. He encourages students to use their considerable skills, under his guidance, to teach each other.

Don encourages students—even students who do not agree with his views about law and society in general—to listen to the views of others, respect those ideas, and express their disagreements. When he asks a question students rush to find an answer, even when they are not called upon to respond. He also imbues students with a determination to do justice. Unlike some professors who denigrate justice because it is difficult to understand, Don explores justice at great length and depth in the classroom. His classes demonstrate that law and justice are not dichotomous. He teaches not only how to read and analyze a case, but what it means to be a lawyer in the best sense. His teaching reflects energy, passion, and idealism. He brings to the classroom wisdom in things of law and life. Don Marshall is a great teacher because of his devotion to teaching, his tireless effort to inspire his students, his undoubted mastery of the substance of his courses, and his success in developing a dynamic learning experience.

One theme that appears often in his classes is the need to perceive truth through different perspectives. As in the classic

Japanese film *Rashomon*,¹ Don demonstrates the value of diverse perspectives of a single event or concept. For example, students come to understand that the first way one looks at a case may not be the way it is perceived by the court deciding it, or by later courts.

Law professors are expected to contribute through teaching, scholarship, and service to the academic enterprise. Each professor should be valued for making his or her own unique contribution. Don wrote a few articles in his early days as a professor and late in his career he gathered his insights from teaching torts into a casebook.² He served the law school and the broader community by successfully presiding over the only reform of the first-year curriculum in a generation. His principal and enduring contribution, however, was in the classroom and to the many students who will carry his lessons into their professional careers and lives. Don also mentored younger law teachers so that even though he has retired from active teaching, he will continue to be heard in the classroom through his colleagues and former students who learned so much from him. The choice Don Marshall made in focusing on teaching rather than published scholarship is not an easy one. The scholar can see physical evidence of his or her work on the shelves of faculty offices, in libraries, and in references by other scholars and courts. The teacher generally must continue in the hope and faith that the methods of analysis and the values communicated in the classroom will be carried into the professional and personal lives of students. Of course, Don has received some tangible indications of his success as a teacher. In addition to being selected repeatedly as teacher of the year and recognized as the Law Alumni Distinguished Teacher at the University of Minnesota, he has received letters from students, graduates, and even their parents saying that he is the best teacher they have experienced in and outside of formal education.

It has been my great privilege for thirty years to be a friend and colleague of Don Marshall. He has been my guide to law teaching. We shared and continue to discuss not only our teaching and professional lives, but we also talk about our families, accomplishments, and difficulties. For Don, teaching has always involved a great deal of counseling of students and

1. RASHOMON (1950).

2. DONALD MARSHALL & DAVID WEISSBRODT, *THE COMMON LAW PROCESS OF TORTS* (2003).

colleagues. Students very often seek his advice on both academic and personal matters.

On his last day of teaching, April 27, 2005, Don Marshall confirmed some of the values and principles that I had learned over the years from our many discussions. On that morning many of Don's former students returned to the Law School to attend his last class. Professor Marshall had not been aware that his class would be the moment for such an outpouring of admiration. Ignoring the crowd at first, he devoted much of the class period to teaching Evidence as he had planned. But he had also prepared for his students a brief concluding lecture in which he urged them to begin considering what constitutes a meaningful life, so that they will not awake at age forty-five, fifty-five, or sixty-five and think "That is not what I meant at all. That is not it, at all."³

To minimize the chance of that happening, Don told his audience that each individual should derive his or her own perspective on what constitutes a meaningful life. While our answer will undoubtedly change over time and as we gain experience, Don presented his own six basic values or principles for a meaningful life: First, he stated his belief that invidious *discrimination is profoundly wrong*, whether on the basis of race, gender, ethnic background, or affectional preference. Every act of discrimination diminishes everyone—not just the immediate victim—and so discrimination must be fought not only as an assault on the victim but upon ourselves. Second, Don encouraged everyone to *be of service* and to contribute to the lives of others. As lawyers we will ordinarily be more comfortable than average Americans, but we should not pursue our own comfort. "The real satisfaction comes from being able to say you have been of service—that you have contributed in positive ways to the lives of others—that their lives are a little better because of you." Third, we should all regard it as our *mission to teach*—not necessarily in the classroom, but in many settings. We should teach all sorts of people—our children, partners, friends, colleagues, research assistants, clients, adversaries, and others. "Their growth gives quality to their lives and, derivatively, to yours." Fourth, Don warned that we should *avoid exploiting others* in our personal or professional lives. To deprive another of his or her dignity will deprive us of our self-respect. Fifth,

3. T.S. ELLIOT, *The Love Song of J. Alfred Prufrock*, in THE COMPLETE POEMS AND PLAYS, 1909–1950, at 3, 6 (1971).

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live a healthy life. Because we owe good health not only to ourselves but also to those persons who care about us, this life-affirming principle—like the others—has a moral dimension. Sixth and most important, *we should devote ourselves to a few genuine love relationships.* There is insufficient space or time in our lives to develop such close relationships with too many people. But for a few people—our children, parents, partners, and a couple of friends—we should regard their happiness as being as important as our own.

At the conclusion of Don's remarks, his students, former students, and colleagues responded with an extended period of appreciative and respectful applause for a master teacher who taught by word and example not only analytical skills, legal theories, and ethical considerations, but also how to be both a lawyer and a human being. All who attended the lecture returned to our chosen professions with renewed enthusiasm. Don Marshall's six principles for a meaningful life were later disseminated by email and written note to many others. They have been installed as screen savers on computers, passed among the staff of the law school, and taped as reminders on telephone receivers, in offices, and at home. His 1994 speech may not be reduced to a few simple precepts, but similarly deserves to be read and re-read by each generation of law teachers.