Digital Commons @ LMU and LLS

Loyola Marymount University and Loyola Law School
Digital Commons at Loyola Marymount University and Loyola Law School

Loyola of Los Angeles Law Review | Law Reviews

3-1-2010

My (Initial) Impressions of David Leonard

Edward J. Imwinkelried

Recommended Citation
Edward J. Imwinkelried, *My (Initial) Impressions of David Leonard*, 43 Loy. L.A. L. Rev. 739 (2010).
Available at: http://digitalcommons.lmu.edu/llr/vol43/iss3/12

This Introduction is brought to you for free and open access by the Law Reviews at Digital Commons at Loyola Marymount University and Loyola Law School. It has been accepted for inclusion in Loyola of Los Angeles Law Review by an authorized administrator of Digital Commons at Loyola Marymount University and Loyola Law School. For more information, please contact digitalcommons@lmu.edu.

most significant legacy to the rest of us—and one that he characteristically refused to preach except by example.

***

Professor Edward J. Imwinkelried[46]

My (Initial) Impressions of David Leonard

I can still remember the very first time I met David several decades ago. We both had attended an evidence conference in Iowa. We had not had an opportunity to speak during the conference, but we had seen each other there. Consequently, when we ended up at the airport at the same time, we immediately recognized each other and began to chat.

Since we both had long delays before our flights, we had a good, long talk. It turned out that we had numerous common interests. We both were intrigued by many of the provisions in Article IV of the Federal Rules, and in particular we shared an interest in the validity of the psychological assumptions underlying those provisions. During that conversation, I formed two strong impressions of David. One was that David was a very thoughtful student of evidence law. It was obvious that he read widely and had thought about many of the issues far more deeply than I had. Although at that time David was just beginning his academic career, David had already carefully dissected many of the provisions in Article IV and had identified the issues that warranted additional scholarly critique.

My second impression was that, simply stated, David was a wonderful, friendly, decent human being. We were virtual strangers to each other, but within a few minutes I felt as if we had known each other for years. One of the things that struck me was the way in which David stated his criticisms. If he thought that a doctrine was unsound or that a specific case was wrongly decided, he couched his criticism in a temperate, modulated way. David was not inclined

46. Edward L. Barrett, Jr. Professor of Law, University of California, Davis School of Law.

toward harsh, overstated language or severe judgments. He seemed so reasonable and willing to give people, including judges and other commentators, the benefit of the doubt. When we parted and left for our respective departure gates, we promised to stay in touch. As I walked away, I was certainly glad that I had met David that day.

A few years later, after I had released the first edition of *Exculpatory Evidence: The Accused's Constitutional Right to Introduce Favorable Evidence*, I decided I needed a co-author to help me update and supplement the text. I thought back to my meeting with David at the airport in Iowa. It seemed to me that David would be the perfect collaborator; as an excellent scholar and a personable individual, he would be so easy to work with. Fortunately for me, David agreed to become my co-author. We worked together on that project for several years. David was a fantastic collaborator. He markedly improved many sections of *Exculpatory Evidence* by sharpening the analysis, and he was such a pleasure to work with. His work was meticulous, he was always on time, and it was always pleasant discussing the work with David.

Unfortunately for me, after a few years, David had to withdraw from *Exculpatory Evidence* because he had been invited to revise one of the Wigmore volumes as part of *The New Wigmore* project. (I was not the only one who recognized David's considerable talent.) David said that he had to devote all his energy to preparing the first edition of *The New Wigmore: Selected Rules of Limited Admissibility*. I was crushed to lose such a fine co-author, but things soon took a turn for the better when I joined *The New Wigmore* team to revise Wigmore's volume on evidentiary privileges. Over the course of the next fifteen years, we frequently corresponded and spoke to monitor the progress of our drafts. David made me proud to be a member of the team. The two volumes he produced, *Selected Rules of Limited Admissibility* and *Evidence of Other Misconduct and Similar Events*, represent exceptional scholarship. In my own work, I rely heavily on David's scholarship.

The National Mock Trial Problem this year involved a question relating to the admissibility of subsequent repair evidence. I help coach our interschool team; and when I briefed the team on that question, I told them that they needed to carefully review David's treatment of that question in *Selected Rules of Limited Admissibility*.

Earlier this month, Professors Steve Saltzburg, David Schlueter, and Lee Schinasi, and I were working on the manuscript for the fourth edition of *Military Evidentiary Foundations*. We were revising the section devoted to the admissibility of statements made during plea negotiations. I pointed out to my co-authors that we needed to add a citation to the very best authority on that subject, namely, David's volume.

David's other volume, *Evidence of Other Misconduct and Similar Events*, is of the same high quality. I have a text discussing the same subject, *Uncharged Misconduct Evidence*. A month ago I released a revised Chapter 9 for that text. I included several citations to David's volume in the revised chapter. Later this year I shall prepare the new cumulative annual supplement for the text. As I am writing this essay, I am looking at the notes I prepared when I initially read David's new volume. In the notes, I listed seventy-three citations to or quotations from David's volume that I plan to integrate into the 2011 supplement. Late last year I corresponded with David and told him that I would be including tens of references to his new volume in the next annual supplement. He seemed pleased. In many respects, the depth and caliber of David's analysis in that volume put mine to shame.

David's career since that meeting in Iowa certainly validated my first impression of him, that he would become one of the preeminent evidence scholars in the United States. He is unquestionably one of the leading commentators on Article IV problems. More importantly, though, the quality of David's life since that meeting validated my second impression, that he was a kind, humane person. My friend, David Leonard, never stooped to harsh language. David would not have known what to do with an *ad hominem* argument if someone had handed it to him on a silver platter, complete with supporting footnotes.

A few years ago our law school was fortunate enough to lure one of our alumnae, Professor Lisa Ikemoto, to leave the Loyola faculty to return to her alma mater. While we were considering that appointment, I spoke with David about Lisa. David's comments were insightful, and he had nothing but good things to say about Lisa. When Lisa accepted our offer, we discussed my conversation with David; I told her that David had spoken of her in glowing terms. It is

an understatement to say that Lisa had nothing but good things to say about David. She raved about his contributions to Loyola Law School and about what a fabulous colleague and friend David was.

Like Lisa, I have nothing but good things to say about David. In some cases, your initial impressions of a person prove to be wrong. I have to confess that I am sometimes not the best judge of character. In other cases, though, those impressions reassuringly turn out to be accurate. My initial impressions of David were that he was potentially a first-rank scholar and an even better person. In this instance, my impressions proved to be entirely correct. I am proud to be able to say that I was one of David's collaborators, and even more privileged to have been one of David's friends.

***

Professor Laird Kirkpatrick[47]

Even if I had never met David Leonard in person, he is someone I would have known through his extensive contributions to evidence scholarship and his outstanding reputation in the legal academy. He has written for audiences at every level—from exhaustive treatises for judges and lawyers, to an innovative casebook for students learning evidence law for the first time, to a helpful student textbook on the subject as well as several study guides.

He is the author of two volumes in *The New Wigmore* series on evidence that rank among the best and most thorough analyses that can be found on the rules in Article IV of the Federal Rules of Evidence. His work represents treatise writing at its best. His research is meticulous and his analysis keen, insightful, and persuasive.

He is also the author of more than thirty law review articles on various aspects of evidence law. His articles often focus on cutting edge issues or problems with the Federal Rules that have escaped the

47. Louis Harkey Mayo Research Professor of Law, The George Washington University Law School.