

Isolation in the Judicial Career

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"Before becoming a judge, I had no idea or warning, of how isolating it would be." "Except with very close, old friends, you cannot relax socially." "Judging is the most isolating and lonely of callings."¹ "The isolation is gradual. Most of your friends are lawyers, and you can't carry on with them as before." "When you become a judge, you lose your first name!" "It was the isolation that I was not prepared for." "After all of these years on the bench, the isolation is my major disappointment." "The Chief Judge warned me: 'You're entering a monastery when you join this circuit.'" "I live and work in a space capsule—alone with stacks of paper" "Your circle of friends certainly becomes much smaller." "Once you get on the appellate bench, you become anonymous."

These are the voices of state and federal judges. They are culled from twenty years of notes taken from my work with the judiciary as a consultant or as a psychotherapist. They are spontaneous, and not in response to any leading question regarding isolation.

JOINT EFFECT OF CODE AND CASELOAD

What is going on here? Why did approximately 70% of the judges interviewed come up with this observation on their own? When asked, most cited the combined effect of a crushing workload plus the restrictions imposed by the Code of Judicial Conduct. Indeed, the average judge, in my experience, brings work home on many evenings and weekends and lives with a constant tension of being behind in his caseload. Time for friends and family, recreation, and cultural pursuits is severely limited, and is constantly weighed against the demands of the court.

Some innovate. A federal trial judge

told me, "On occasional weekends, my wife and kids come to my chambers. They play. I work. We get pizza or Chinese delivered, and time passes better than being separated." Another couple, both of whom are state trial judges, report, "We work late in the courthouse every week day. But on the weekends, we see no one. We sleep or stay in bed most of the weekend, and absolutely bring no legal work home. As a result, we hardly see any friends and have almost given up on social life, but we've tried to preserve our intimate life. This way we're also usually caught up with our work."

As to the effect of the Code, judges report that it is more the "appearance" requirement that poses the biggest burden. They have to be vigilant and maintain an appropriate distance and demeanor at social and bar gatherings. Jokes and offhand remarks can backfire, especially in smaller communities. The immediate family is also drawn into the ambiguous image and behavior restrictions. A rural area judge writes, "We have no privacy. If my wife or I fail to say hello to a local, it will result in a slight. If I'm seen talking alone to someone longer than a couple of minutes, word will get around that I must somehow be close to that person. So, we've learned to be alert and careful when we step outside our home."

Most judges believe it is necessary to appear confident and unperturbed in public. Thus, an overworked trial judge explains, "You develop the skill of moving a docket of 200 cases without giving the impression of hurrying anyone! But burnout is a widespread fact here that we don't discuss. Often, I am bored and exhausted; but I can't talk to anyone about it. I have to keep up the act of being on top of my game."

Chief justices and presiding judges often exhort their colleagues to become more involved in their communities in permissible ways. But some colleagues object. A federal judge expressed it to me this way: "I would like to contribute more. But, with the little time I have left, I feel it first should go to my family, and then to my own time: to read, stay fit, and listen to some music." Another judge added, "You gradually lose your original group of friends, and you have no time or energy to make new ones. Discretionary time goes down to zero. With all the ethical restrictions that are obviously necessary, who has time to go out and break new ground?"

THE ISOLATION PROCESS

Judicial isolation is essentially a part of a wide-ranging and deep acculturation process. Early in the judicial career, former lawyer colleagues immediately begin to show deference to the new judge by referring to him or her only by title. Despite protestation by the new judge when outside the court, this usually sticks and the judge accepts it.

The higher status conferred on the former lawyer casts wide social ripples. It is experienced by the judge and his immediate family with excitement and pride. Despite the ritual requirement to appear modest and even unworthy, the net effect is one of a heady rise in esteem and social worth. The subculture of the courthouse reinforces the new identity through the powerful symbolism of the robing ceremony and constant deferential behavior. This even includes the architecture of the building and courtroom with its raised bench and solemnity.

Despite the understanding that it is the office and role that are being honored, the man or woman occupying it is

Footnotes

1. Linda Stewart Dalianis, "Judges Writing Journals: A Personal Perspective," JUDGES' J., Spring 1999, at 13.

soon merged with the charismatic image. Slowly, former colleagues continue to pull away from the judge and act with more formality toward him or her. Friends, relatives and neighbors also acknowledge the rise in status and continually display heightened respect and deferential behavior. In other societies, this process is more pronounced. In our less formal American culture, judges still are usually placed at the apex of any survey of the degree of respect accorded various professionals. Inside himself, the judge may not accept the imposed image, but he is still likely to be swept along by the external niceties.

At a later stage, many judges find themselves adopting a duality in their sense of self. They play out “The Honorable” role at work, but shed it at home and with close friends. The power of the stereotype and the high qualities attributed to its bearer can impel even close friends to buy into it, at least to some extent.

Under the combined effect of having little time for personal life and being continually treated like a demigod, it should not surprise anyone that the phenomenon humorously referred to as “robe-itis” can emerge. The caricature conveys the image of a pompous martinet who never sheds his robe or exaggerated role, especially at home. The more serious and lifelike version is a judge who has become so absorbed by his professional role that he or she has lost much of his private persona and can no longer relate as a peer to most people. This is the end product of years of living and working in the absence of frank criticism and corrective feedback.

A further casualty of this isolating process is the weakening of honest and robust dialogue. At the appellate level it can sometimes be seen when oral argument is eschewed. Judge Coffin² cites the “dilution of collegiality” under conditions of an overburdened and expanded judiciary where judges are “polite strangers” to each other and dialogue is shallow. Over a span of years, a judge usually surrenders a continuing

close relationship with his classmates. Despite meetings and work on bar projects, the required degree of trust and emotional access seldom develops. Some of the judges quoted at the top of this essay were referring precisely to this invisible wall.

The subject of judicial isolation is so vexing also because one meets a great deal of denial on the part of many judges. They may claim in a public forum that they have many friends and are puzzled by all of this talk of isolation. On closer examination, I have usually found that this is true for some extroverted judges, but not for the majority, who tend to be largely introverted and overwhelmed by work.

Another unintended casualty of the Code and the long-range effect of interpersonal isolation is a withdrawal from intellectual and community involvement. The judge expends all his fine capabilities in court, but seldom outside. Sometimes ambition and reappointment or election is folded into a posture described by a federal judge: “You use extreme caution, not to say something you’ll later regret, or something that may be held against you if you’re under consideration for an appellate appointment. These cautionary attitudes certainly dictate that you’re not likely to write or say much outside of your carefully crafted opinions.”

I did ask a few judges if they could think of colleagues who used to be rich and exciting as thinkers and who have gradually withdrawn into smooth and social banality. The response described colleagues who exchange jokes and talk about sports in the judges’ dining room, and do not respond to occasional efforts at serious conversation.

ROLE OF PERSONALITY TRAITS

In my clinical experience, a substantial majority of judges’ personality profiles are a composite (in varying degrees) of introversion, intellectuality, high idealism, and a strong work ethic. Given these personality traits, it is my opinion that, under the twin hammers of

social isolation and chronic overwork, it is not surprising that so many judges adapt to their very difficult situation with the reaction patterns discussed above. Essentially, they fail to aggressively fight isolation and its associated negative consequences.

Let us now look at the other group, the roughly 30% of judges who appear not to suffer appreciably from isolation. Their profiles display a combination of extroversion, more emotionality nuanced intellectuality, idealistic tendencies tempered by pragmatism, and a strong work ethic also, but coupled with oppositional traits. These “more extroverted” brethren are equally competent judges, but they seem to experience less stress. They also appear not to feel so confined by the Code of Judicial Conduct. They strive for more public appearances, engage in more debates, and publish more widely.

A few examples of their venturesomeness may help paint a composite portrait: a couple of these judges appear occasionally on talk radio; one is a volunteer paramedic; some teach a variety of non-legal courses in colleges and prisons; several write fiction and act in small theater; others have written on important societal issues. Almost all of them report that when they sense isolation beginning to envelop them, they respond by a variety of vigorous outreach efforts. They reconnect with old friends, seek new social contacts outside the legal profession, and engage in various communal and cultural activities

TRANSMUTING ISOLATION

Isolation is not going to be removed from the judicial career. The strictures of the Code are the bulwark of judicial independence. Both heavy workloads and isolation will remain major elements of the judicial career. Indeed, under the pressures of a high-profile trial, a judge can find great strength not only in his friends and family, but also in his years of monastic isolation. One state judge expressed it thus: “You have to accept isolation. Ultimately, it will serve you

2. Frank M. Coffin, *ON APPEAL: COURTS, LAWYERING AND JUDGING* 216-17 (1994).

well when your independence is seriously threatened. You must cultivate your distance in order to make the hardest decisions of your life when your own life and that of your family is under threat because of a decision you've handed down."

A judge does not have to undergo a personality change in order to reduce the effects of unavoidable isolation upon his quality of life and collegiality. It also is not necessary to test the borders of the Code of Judicial Conduct. As Judge Deanell Tacha of the United States Court of Appeals for the Tenth Circuit has written: "In fact, the laws, regulations, and codes governing the conduct of judges leave a wide range of civic, philanthropic, and educational activities open for participation by judges. Indeed, judges are far freer to interact with the other two branches of government than they realize."³

A prescription for transmuting isolation into a healthy life and judicial

career involves these elements:

(1) Aggressively holding on to old and childhood friends. We all need witnesses to our stages of life.

(2) Maintaining a close support circle of relatives and friends who are not competitive or envious, and with whom one can engage in robust and honest mutual appraisal and dialogue.

(3) Taking initiative to engage in activities totally removed from the legal and judicial world, and to form friendships with some of the people you will meet in this way.

(4) Learning the basics of stress management techniques so that you can work efficiently but not pay too high a price for it.

(5) Periodically serving as a mentor to a new judge, so that you can teach by example most of these points.

Judicial isolation is an inherent part of the role judges must play in society. It can seriously diminish a judge's intellectual and social abilities. By understand-

ing and actively employing the measures recommended, a judge can transmute isolation into a rewarding resource.



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3. Deanell R. Tacha, "Renewing Our Civic Commitment: Lawyers and Judges as Painters of the 'Big Picture,'" 41 U. KAN. L. REV. 481, 488 (1993).

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