9-21-1993

The Advocate

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Recent Vandalism
Condemned by Administration

A recent wave of vandalism directed at an SBA-sponsored student group has brought a strong response from Dean John Feerick and other Law School administrators. Stating that the last such act "runs against our essential values of free speech and association," the Dean has called for a Forum on Respect and Tolerance, to be held sometime in the next few weeks.

The Gay and Lesbian Law Association (GALLA) has been the target of three separate acts of vandalism in the past month. Last week, an invitation to a dinner meeting was ripped from the GALLA bulletin board on the ground floor. At least one GALLA member was unable to find the location of the meeting due to the vandalized board. This latest incident follows two similar occurrences in the past month, both involving the destruction of posters and literature on the GALLA bulletin board.

Assistant Dean Robert Reilly has been asked to conduct an investigation into the GALLA matter, though administrators admit that it will be very difficult to find the person or persons responsible. In the meantime, Dean Feerick has let it be known that such acts will not be tolerated. In a draft of a letter to be distributed to the Fordham Law community next week, the Dean states that "Tolerance of persons who may be different, or who may have different viewpoints, religious beliefs or cultures, is critically important in our increasingly fractured world. We must learn how to bridge our differences."

While Associate Dean Georgene Vairo, concerned that the act may not have been specifically intended to disrupt GALLA's communications with its members and potential members, she points out that there is little difference: "Clowning around or trying to disrupt communication...either way, this is the suppression of one group's attempt to reach out."

Dean Vairo says that a Forum on Respect and Tolerance will be held "very soon" in McNally Amphitheater. Similar forums, sponsored by other SBA groups, have been well-attended. The purpose of the forum, as stated in Dean Feerick's letter, is to "provide an opportunity for all members of our community to talk about the tensions that differences sometimes create, and how to resolve those tensions without infringing other important values."

When asked if the administration was taking an unnecessarily strong response to what might be...
From the Editor

I am disguised and ashamed. Within the halls of our law school someone has decided to express their hate and aggression by vandalizing the Gay and Lesbian Law Association's bulletin board. It seems to be someone other than a visitor to the law school because these attacks have occurred several times over the course of a month. What's next, graffiti? What did this person expect to accomplish? The only reason I can think of is an intent to drive GALLA underground or an unresolved psychological conflict. If the perpetrator is reading this, my advice to you is to grow up and to seek therapy. For our sake as well as your own. This is an attack not only upon the gay and lesbian community at Fordham, but an attack on the entire Fordham Law Community. The students of Fordham cannot afford to sit back and let the Administration handle this alone. If any of us looks the other way when actions like this occur we condone and encourage even more offensive behavior. This time GALLA is under attack. Next time it may be you.

Tracy J. Murphy

Hearsay

Fordham Latino Alumni Association honored Manhattan Family Court Judge Cira Martinez last Thursday, while Clan na Gaeil had a shindig at Kennedy's over on West 57th Street, featuring a visit from Dean Reilly.

Back on campus, BLSA sponsored a wine-and-cheese reception for new BLSA members Friday, September 10 in the Faculty Reading Room.

Upcoming:
The I.A.L.S.A. (Italo-American Law Students Association) will hold their first meeting of the year this Wednesday, September 22 at 6 pm in the Student Lounge.

Crowley Labor Guild is working on sponsoring a forum on labor issues, probably sometime this semester.

CORRECTION
In the Sept. 7 issue, we failed to properly identify Ms. Cira Martinez as a Manhattan Family Court Judge. We apologize for this oversight.

Breaking the Bench®

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The Advocate is the official newspaper of Fordham Law School, published by the students of this school. The purpose of The Advocate is to report the news concerning the Fordham Law School community and developments on the legal profession, and to provide the law school community with a medium for communication. The Advocate does not necessarily concur with opinions expressed herein, and is not responsible for the opinions of individual authors or for factual errors in contributions received. Contributions are tax deductible. Address all letters, manuscripts, and blank checks to: The Advocate, 140 W. 62nd St., Fordham University School of Law, New York, NY 10023. Submissions should be made on disk in Macintosh Microsoft Word 5.0 or WordPerfect 5.1, accompanied by a hard copy. We reserve the right to edit for length.

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Commentary

Fordham 2001

by Jeremy Klauser

It would seem that the Law School is in for some big changes over the next few years. For one thing, there will be bathrooms in the library. Well it's about time. Rudos to Carole Zabar (and her bladder) for her donation. I think every one of us at Fordham owes her a thank you. Thanks, Carole. Now if I can only talk you into setting up shop in the Cafeteria. Unfortunately, not all the present and proposed changes are as appropriate as bathrooms in the library. But Dean Feerick tells us that the changes are needed to take the Law School facility into the year 2000. The University is even considering adding another building to the Lincoln Center campus (I hope it's better looking than the new dorm). The question is, why? Not to rule out, even for me. Space. The University and the Law School are expanding and class size is rocketing. According to admission records, enrollment at the Law School is way up. Up from 246 first years in 1983 (including night students) to a whopping 547 this year. Part of the increase is due to the 1984 McNally expansion. This year's entering class was also unexpectedly large because late matriculations forced the Law School to accept almost 100 unanticipated students. Even so, the target size for this year's incoming class was 464 (355 Day: 120 Evening). That number represents serious growth. We've gone from a total size of close to 950 in 1985 to approximately 1480 (1396 targeted) today. So, we need more space, a lot more. That's why the student lounge now doubles as a locker room and why Dean Rivera has been roaming the halls looking for extra chairs and tables (and hopefully finding a new place for the blood drive). The question that I ask is whether it's more space we need, or fewer students. As it stands, our resources are strained. Our size has resulted in a crunch for both faculty and classrooms, much to the students' detriment. Scheduling has become a nightmare for both students and Registrars, and what upperclassman would ever have thought that seats would be hard to come by in the cafeteria and library? By the way, sheer volume is also the reason for gridlock on the third floor balcony. Let's get chastised for criticizing without offering solutions, how about holding some classes on Fridays (we all have to give a little). Zero upperclass courses are presently held on Fridays, and a five day week would alleviate stress on the larger class-rooms. In the face of higher tuition, this situation is hardly equitable.

As the legal "profession" comes under fire for being the legal "business"- is Fordham trying to cash in? I certainly hope not, what would Professor Pearce think? Instead of talking "efficiency", we should be planning on downsizing and concentrating on quality. I understand the Long Range Planning Committee (it really exists) has at least discussed a size reduction. The Committee should revisit the issue, and take another look toward 2001. Maybe they should start by watching the movie.
Professor Nicholas Johnson

Professor Hopes to Ease First-Year Fears

This is the first of a series of articles about new professors at Fordham Law School.

by Jeffrey Blomberg

Nicholas Johnson values mistakes. “I think it is easier to learn when one is willing to make mistakes,” said Fordham’s newest contracts professor. “I would hate to hold anyone back when he or she might contribute something that may help his or her classmates.”

And so, rather than putting students on the spot, Professor Johnson encourages volunteers in his class. In a recent conversation with The Advocate, he noted the downside of the “heightened state of anxiety” that stirs within a student prior to being called on in class. “This heightened state is not the best way to produce the best thought process.” The Socratic method, which he employs extensively, is ideally a conversation between colleagues, and Johnson encourages discussion by urging his students not to be afraid to make mistakes.

Professor Johnson left a large firm to join the faculty of Franklin and Marshall College in 1988. “It allows me to write on topics I choose, rather than those my clients and an analysis of Second and Ninth Amendment con­cepts in Rutgers Law Review. Presently, he is working on a Tenth Amendment critique of the Emergency Planning Law. Johnson presently teaches two sec­

Born in White Sulphur Springs, West Virginia in 1959, Johnson was one of the very few from his hometown to attend a four-year university, let alone law school. He graduated from West Virginia University with a B.S. and a B.A. in both Business and Finance, and from Harvard Law School in 1984. At Harvard, he was a research director of the Environmental Law Society.

After graduating, Johnson became a commercial litigator at King and Spalding in Atlanta, leaving in 1985 for Philadelphia and marriage. He joined Morgan, Lewis, and Bockius in Philadelphia to litigate environmental and regulatory affairs.

His published works include an article on state separation-of-powers issues in the Dickinson Law Review, and an analysis of Second and Ninth Amendment con­cepts in Rutgers Law Review. Presently, he is working on a Tenth Amendment critique of the Emergency Planning Community’s Right To Know Act (a part of the Superfund Law).

Vandalism

just an isolated incident, Dean Vairo noted that “Three times is not isolated. And the reaction is not too big. We would respond the same if it was directed at the Catho­lic, the Irish, the Italian or any of the other student groups here. We try to promote civilty, tolerance, and communication... not vand­alism.”

GALLA has been applauded by New York gay and lesbian groups for improving the image of Fordham Law, which was long looked upon as an “anti-gay” school. Currently, the group is in the process of organ­izing a conference of gay and legal issues which will be held at the law school in February. The con­ference, which will be co-sponsored by the Fordham Urban Law Jour­nal and the Lesbian and Gay Law Association of Greater New York, is expected to attract nationwide at­ten­tion. According to GALLA co­chairperson Fred Bimbler, the con­ference will be the first of it’s kind in the United States.

GALLA was quick to applaud administrators for their efforts in­volving the vandalism. “The admin­istration has been extremely helpful, not only in this instance but over the past two years,” said Bimbler.

Bulletin board vandalism is nothing new to the Law School. Both the Black Law Students Asso­ciation and Fordham Law Women have had their boards targeted in the past. The recent acts against GALLA were, however, not believed to be related.

— Mike Bertrand

Battered Women’s Project

The number of hearings per week. On average up to a dozen students may be in court weekly. Watson said. Three students will be working 12 hours per week in the Victim Services office doing cli­ent counseling and interviewing in addition to working as court advo­cates.

“Program is long overdue at Fordham. Most law schools in the country have similar programs not only for battered women but for a range of criminal and civil is­sues,” Sehgal said.

The project members also hope to raise awareness among students about violence against women and the scope of these problems and the need for the legal community to offer support for victims.

“One out of four women is bat­tered in this country, and it’s amaz­ing that our society continues to ignore the issue and so many of us don’t realize just how pervasive it really is,” Sehgal said.

The Fordham program is mod­eled after the student-run advo­cacy project at Harvard Law School. The project’s directors hope to ex­pand the program to offer a wider range of services by next spring.

One of the objectives is to ex­pand the amount of client advoca­cy provided by students so that students are handling more than protection order hearings. In addi­tion, project members hope to have a hotline established at Fordham, so that students will take cases from the start to finish. This would potentially include divorce cases which Victim Services has pro bono attorneys handle.

Project members are currently looking for a faculty advisor so that students doing court advocacy can meet on a regular basis to discuss the different issues they encounter in court and also to learn to deal with the emotional aspect of do­mestic violence.

Watson and Sehgal have also discussed the possibility of creating a trial and advocacy class which would be devoted to battered women’s issues with professor Jim Cohen, who heads the Fordham clinical program.

There are currently no men in­volved in the project, however, the project directors did not intend for it to be gender exclusive. “Men may choose to get involved, but they must keep in mind that the victims will be given the opportunity to reject their help,” Watson said.

“Given the fact that 95 percent of battered victims are women, they may not want men representing them especially since the process of extricating yourself from a vio­lent situation is so emotional,” Sehgal said.

“There are three times as many animal shelters as there are for battered women in this country, we can’t continue to ignore these is­sues,” Watson said.

GALLA co-chairperson Andy Richards

“GALLA condemns all defamation against mi­nority groups. Any attempts to quash the ability of a group to communicate and organize with its members are particularly heinous and Galla seeks the assistance of those in our community who value First Amendment rights to identify and punish the perpetrators.”

— Galla co-chairperson Andy Richards

Banned from Previous Puzzle
Should a convicted felon be admitted to law school?*

Compiled and photographed by Kira P. Watson

GARY KLINE, 2L-DAY

Unless there is any law prohibiting him from attending he should be able to attend. Personally, I might feel a little uncomfortable with a convicted murderer in law school but I don't see any way — unless there is a law prohibiting him from attending — that the law school can say that he can't attend.

KEVIN DOWNEY, Director of Admissions

I am very ambivalent about it. Obviously it raises broad issues about what the purpose of the criminal justice system is. Can people be rehabilitated? Can character change? In final analysis I come down against his enrollment. Principally because I view murder as the most heinous crime that I think even if you are rehabilitated you should pay a price for the rest of your natural life and part of that price is exclusion from a profession such as law.

PROF. DEBORAH DENNO, Criminal Law Professor

It seems that under any theory of punishment, James Hamm should be allowed to practice law. He has satisfied our desire for retribution because he served 18 years in prison. He appears to be rehabilitated.... His behavior does not appear dangerous so he no longer needs to be incapacitated and there is no utilitarian benefit in frustrating his efforts to achieve a legal career. Vengeance would justify keeping James Hamm from practicing law but we could then ask, would society benefit more from this? I think not. Let him practice law and pay us back in a socially useful way for the pain and misery he has caused others. Indeed, some may argue that law school is one of the best means of torture.

LESTER LAYNE, 2L-DAY

Once the convicted felon has paid his debt to society he definitely should be allowed to attend law school and be able to sit for the bar.

* A convicted murderer on lifetime parole has been admitted to an Arizona law school. Forty-four states allow ex-convicts to attend law school, and to be admitted to the bar.

Is a Lesbian a Fit Mother?

By Alan Dershowitz

The recent decision by a Virginia court removing a 2-year-old boy from custody of his lesbian mother raises fundamental questions about the power of the state to substitute its view of good parenting for that of the natural mother.

In that case, the 2-year-old was taken from his mother and given to his grandmother - her mother - for rearing. The court ruled that the mother's lesbian conduct is "illegal and immoral and renders her an unfit parent." It also ruled that the child's "best interests" would be served by removing him from a parental setting which would have inflicted an "intolerable burden" on him for the rest of his life. Finally, the court contrasted the mother, whom it found to be somewhat immature and indiscriminate, with the grandmother, whom it concluded was a strict disciplinarian.

In thus playing God, the court presumed to predict the future and to know which kind of household would be best for the baby. There were no findings of child abuse, neglect or other disqualifying acts of parental misfeasance or nonfeasance, beyond the mother's acknowledgement that she sometimes used and patted with her female companion in front of her son and that her son called the companion "Dada."

It is doubtful that if the allegedly "illegal and immoral" conduct at issue here were anything other than homosexuality, a court would dream of taking a child away from his natural mother. Imagine a court removing a child from a home in which tax evasion, insider trading or Medicare fraud were openly practiced. Or consider parents who are openly racist, anti-Semitic or sexist, even to the extent of breaking the law. And what about antabuse, abortion zealots, who are frequently arrested for blocking abortion clinics. None of these parents would have their parental rights taken from them because their conduct was "illegal and immoral."

Moreover, it is highly doubtful that criminalizing lesbian conduct is constitutional. Although the Supreme Court, in a 5-to-4 decision back in 1986, refused to strike down a Georgia sodomy law, even former Justice Powell - who cast the deciding vote - now acknowledges he was wrong. And recent changes in high court personnel make it likely that the next time this issue comes before the justices, they will declare unconstitutional all remaining state laws punishing consensual homosexual conduct.

But even if homosexual conduct is constitutionally protected, the question would still remain whether a judge could take such conduct into account in deciding what is in the best interests of the child and whether the child should be removed from the mother's custody. The answer should be no. Judges should not have the power to remove children from their natural parents in the absence of compelling evidence that their physical or psychological welfare is at high risk. It should never be enough to surmise - as the judge did in this case - that the child would be better off with his more conventional grandmother than with his lesbian mother.

Consider the implications of a rule allowing judges to decide that the child would be better off with someone other than its natural parents. A religious judge might decide that religious grandparents would provide a "better home than atheistic parents." An intellectual judge might prefer intellectuals to TV watchers. A racist judge might prefer adoptive white parents for a light-skinned-African-American child. A wealthy judge might choose adoptive parents over struggling working class or welfare parents.

Each of these "benevolent" judges might be able to rationalize their decisions by reference to the best interests of the child. But our Constitution does not permit children to be taken from their natural parents and "upgraded" to the best available adoptive parents.

In a dispute between divorced and natural parents, the court may be able to select the better one, but when the dispute is between a natural parent and the state or a surrogate, the claims of the natural parent are paramount. And unless a court can say the natural mother in this case would provide a better home, that should not be substituted into the picture. Even if the natural mother is disqualified. Even if the grandmother in this case would provide a better home, that should not be substituted into the picture. Even if the grandmother in this case would provide a better home, that should not be substituted into the picture. Even if the natural mother in this case would provide a better home, that should not be substituted into the picture.

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Forget a concert or a Broadway show, we're law students and we're poor. If we had an extra sixty or seventy bucks sitting around, let's hope we'd spend it on each other at the Black Bass.

So how does the Fordham law stud keep hip and happening if almost everything fun is out of the question? Try some new tunes to keep up with the times. Torts seems to read a lot faster with some good music on the stereo.

For those of us still learning the ropes, there are some great new albums out there perfect to study by.

If you're ready to take a little of the edge off while you plow through your reading, try turning on the Pat Metheny Group's latest album, the Road to You. (Geffen Records). It was recorded live during PMG's recent European Tour as the Group dazzled French and Italian fans doing staple songs performed with a renewed mellow energy.

The opening track, "Have You Heard," is Metheny at his best. The Group comes together with a symphony of sounds complimented by PMG's unique use of the human voice as musical instrument. The music...
The years made their mark by finishing in second place. Since no one actually seemed to know their individual names everyone's talking about!!!

Music to Study By (from page 6)

Road to You is a quiet but interesting tune that showcases Metheny's raw musical talent and the Group's delicate interpretations. Metheny is great for studying, not only because there are no words to startle the student, but because his music can be enjoyed on so many levels. You don't need to focus on the melodies, just feel the energy and let its intensity help you to focus.

For those who prefer the classics when you sit down to study, Yo-Yo Ma has just released a new recording of several pieces by twentieth-century American composers entitled Yo-Yo Ma, Made in America (Sony Music Entertainment). This album includes pieces composed by Leonard Bernstein, Leon Kirchner, George Gershwin, and Yo-Yo Ma plays Bernstein's "Clarinet Sonata" (transcribed for cello and piano) by Mal with a grace and eloquence fit for a tribute to New York's favorite classical icon. It's interesting to note that around the time of his death, Bernstein was composing a piano trio for Isaac Stern, Emanuel Ax, and Yo-Yo Ma.

If you like a Gershwin tune, Ma and pianist Jeffery Kahane have recorded "Miss Otis Regrets" for cello and piano. They perform a lively and enjoyable adaptation of the piece. Upon its debut in 1926, the Three Preludes was praised by early critics as "brief and glowing vignettes of New York life," so listen for the energy of the city in the music. It may even inspire you to jump ahead in your reading.

Next Issue: Music to Party By

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