

A photograph of a desert landscape. In the foreground, a dark asphalt road curves from the bottom right towards the center. The road has a white line on the left and a dashed yellow line on the right. The middle ground is a vast, arid plain covered with sparse, low-lying desert vegetation, including small shrubs and cacti. In the background, a range of rugged mountains stretches across the horizon under a pale, overcast sky. The overall color palette is dominated by earthy browns, tans, and muted blues.

The Path of Present

PHOTOGRAPH BY DEREK THOMSON



Intention

BY D. GORDON SMITH

It is customary in the welcoming address of the BYU Law School to talk about what it means to think like a lawyer, but I assume that your first-year professors will introduce you to that skill. Instead, I want to spend the short time we have together talking about a weightier matter: how to think like a lawyer of faith. More specifically, I want to challenge the way you think about the path of your life in the law.



Paths

The path is a powerful metaphor in our religion and culture. The 23rd Psalm describes the Lord leading David in “paths of righteousness.”¹ In the Sermon on the Mount, Jesus told us that

“narrow is the way, which leadeth unto life, and few there be that find it.”² In the Book of Mormon, Lehi described a dream in which he saw a rod of iron extending along the bank of a river. Beside the iron rod was a “strait and narrow path” that connected a large and spacious field, which represented the world, to the tree of life, the fruit of which represented God’s love.³ And in one of his early revelations, Joseph Smith proclaimed that “God doth not walk in crooked paths.”⁴

These teachings all describe spiritual paths. They admonish us to conduct our lives in righteousness, to be disciplined in adhering to divine instruction, and to seek the ultimate goal of living with God. But they do not answer—at least not directly—what type of law we should practice or whether we should practice law at all, where we should live and work or what issues we should consider in making those choices, and what ethical and social values will become most prominent in our professional identities. The answers to these questions and myriad other questions about family, friends, health, and so on determine the paths of our lives. I want to reflect on our paths and how you might approach your time at the Law School.



Getting Proximate

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Some of you think you know why you have enrolled in law school. You have particular ideas about your career—perhaps

even a specific job—in mind, and you are eager to check the boxes, earn the diploma, and move to the next stage of your life. You may be so fixed in your imagined path that you are no longer open to counsel, but I encourage you to consider the possibility that you are here for reasons that have nothing to do with the reasons that motivated you to come here.

A few weeks ago I had the privilege of listening to Bryan Stevenson, the founder and executive director of the Equal Justice Initiative, as he spoke to the Utah Bar Convention. He told a story about an experience from the summer after his first year of law school. This experience is the lead story in his excellent book *Just Mercy*, and I quote it at some length here:

I wasn't prepared to meet a condemned man. In 1983, I was a twenty-three-year-old student at Harvard Law School working in Georgia on an internship, eager and inexperienced and worried that I was in over my head. I had never seen the inside of a maximum-security prison—and had certainly never been to death row. When I learned that I would be visiting this prisoner alone, with no lawyer accompanying me, I tried not to let my panic show.

Georgia's death row is in a prison outside of Jackson, a remote town in a rural part of the state. I drove there by myself, heading south on I-75 from Atlanta, my heart pounding harder the closer I got. I didn't really know anything about capital punishment and hadn't even taken a class in criminal procedure yet. I didn't have a basic grasp of the complex appeals process that shaped death penalty litigation, a process that would in time become as familiar to me as the back of my hand. When I signed up for this internship, I hadn't given much thought to the fact that I would actually be meeting condemned prisoners. To be honest, I didn't even know if I wanted to be a lawyer. As the miles ticked by on those rural roads, the more convinced I became that this man was going to be very disappointed to see me.⁵

Stevenson was visiting a man who had been on death row for more than two years. The man did not have a lawyer, and Stevenson's task was to convey to this man one simple message: you will not be killed in the next year.

The visitation room was twenty feet square with a few stools bolted to the floor. Everything in the room was made of metal and secured. In front of the stools, wire mesh ran from a small ledge up to a ceiling twelve feet high. The room was an empty cage until I walked into it. For family visits, inmates and visitors had to be on opposite sides of the mesh interior wall; they spoke to one another through the wires of the mesh. Legal visits, on the other hand, were "contact visits"—the two of us would be on the same side of the room to permit more privacy. The room was small and, although I knew it couldn't be true, it felt like it was getting smaller by the second. I began worrying again about my lack of preparation. I'd scheduled to meet with the client for one hour, but I wasn't sure how I'd fill even fifteen minutes with what I knew. I sat down on one of the stools and waited. After fifteen minutes of growing anxiety, I finally heard the clanging of chains on the other side of the door.

The man who walked in seemed even more nervous than I was. He glanced at me, his face screwed up in a worried wince, and he quickly averted his gaze when I looked back. He didn't move far from the room's entrance, as if he didn't really want to enter the visitation room. He was a young, neatly groomed African American man with short hair—clean-shaven, medium frame and build—wearing bright, clean prison whites. He looked immediately familiar to me, like everyone I'd grown up with, friends from school, people I played sports or music with, someone I'd talk to on the street about the weather. The guard slowly unchained him, removing his handcuffs and the shackles around his ankles, and then locked eyes with me and told me I had one hour. The officer seemed to sense that both the prisoner and I were nervous and to take some pleasure in our discomfort, grinning at me before turning on his heel and leaving the room. The metal door banged loudly behind him and reverberated through the small space.

The condemned man didn't come any closer, and I didn't know what else to do, so I walked over and offered him my hand. He shook it cautiously. We sat down and he spoke first.

"I'm Henry," he said.

"I'm very sorry" were the first words I blurted out. Despite all my preparations and rehearsed remarks, I couldn't stop myself from apologizing repeatedly.

"I'm really sorry, I'm really sorry, uh, okay, I don't really know, uh, I'm just a law student, I'm not a real lawyer. . . . I'm so sorry I can't tell you very much, but I don't know very much."

The man looked at me worriedly. "Is everything all right with my case?"

"Oh, yes, sir. The lawyers at SPDC sent me down to tell you that they don't have a lawyer yet. . . . I mean, we don't have a lawyer for you yet, but you're not at risk of execution anytime in the next year. . . . We're working on finding you a lawyer, a real lawyer, and we hope the lawyer will be down to see you in the next few months. I'm just a law student. I'm really happy to help, I mean, if there's something I can do."

The man interrupted my chatter by quickly grabbing my hands.

"I'm not going to have an execution date anytime in the next year?"

"No, sir. They said it would be at least a year before you get an execution date." Those words didn't sound very comforting to me. But Henry just squeezed my hands tighter and tighter.

"Thank you, man. I mean, really, thank you! This is great news." His shoulders unhunched, and he looked at me with intense relief in his eyes.

"You are the first person I've met in over two years after coming to death row who is not another death row prisoner or a death row guard. I'm so glad you're here, and I'm so glad to get this news." He exhaled loudly and seemed to relax.

"I've been talking to my wife on the phone, but I haven't wanted her to come and visit me or bring the kids because I was afraid they'd show up and I'd have an execution date. I just don't want them here like that. Now I'm going to tell them they can come and visit. Thank you!" . . .

I finished my internship committed to helping the death row prisoners I had met that month. Proximity to the condemned and incarcerated made the question of each person's humanity more urgent and meaningful, including my own. I went back to law school with an intense desire to understand the laws and doctrines that sanctioned the death penalty and extreme punishments. I piled up courses on constitutional law, litigation, appellate procedure, federal courts, and collateral remedies. I did extra work to broaden my understanding of how constitutional theory shapes criminal procedure. I plunged deeply into the law and the sociology of race, poverty, and power. Law school had seemed abstract and disconnected before, but after meeting the desperate and imprisoned, it all became relevant and critically important.⁶

I do not know anything about Henry's case beyond what I have read to you, but there is one thing that I know about Henry: he is a child of God. Stevenson uses this story to illustrate the principle of "getting proximate." Reflecting on his 30 years of representing the poor, the incarcerated, and the condemned, he wrote:

Proximity has taught me some basic and humbling truths, including this vital lesson: Each of us is more than the worst thing we've ever done. My work with the poor and the incarcerated has persuaded me that the opposite of poverty is not wealth; the opposite of poverty is justice. Finally, I've come to believe that the true measure of our commitment to justice, the character of our society, our commitment to the rule of law, fairness, and equality cannot be measured by how we treat the rich, the powerful, the privileged, and the respected among us. The true measure of our character is how we treat the poor, the disfavored, the accused, the incarcerated, and the condemned.⁷

Stevenson's advice should resonate in this law school, named for J. Reuben Clark, who spoke poignantly "to them of the last wagon."⁸ As you use your legal training to help those who are vulnerable and less fortunate than you, you will find new purpose in and commitment to the task at hand, and you may, like Bryan Stevenson, discover your life's calling.

This speech was given to BYU Law School entering students on August 23, 2017.



Just Begin

In encouraging you to make your life plans contingent, I am giving you advice that directly contradicts most career counselors. In *The 7 Habits of Highly Effective People*, Stephen R.

Covey identified as habit two “Begin with the End in Mind.”⁹ This is probably good advice if you are cooking dinner or traveling to see a total solar eclipse, but I suspect some of you would not be here today if you had followed this advice. While I recognize the value of focused effort, I worry that too many of you will get stuck with a bad plan. Covey was worried about a different problem, the problem of unfulfilled dreams:

So, what do you want to be when you grow up? That question may appear a little trite, but think about it for a moment. Are you—right now—who you want to be, what you dreamed you’d be, doing what you always wanted to do? Be honest. Sometimes people find themselves achieving victories that are empty—successes that have come at the expense of things that were far more valuable to them. If your ladder is not leaning against the right wall, every step you take gets you to the wrong place faster.¹⁰

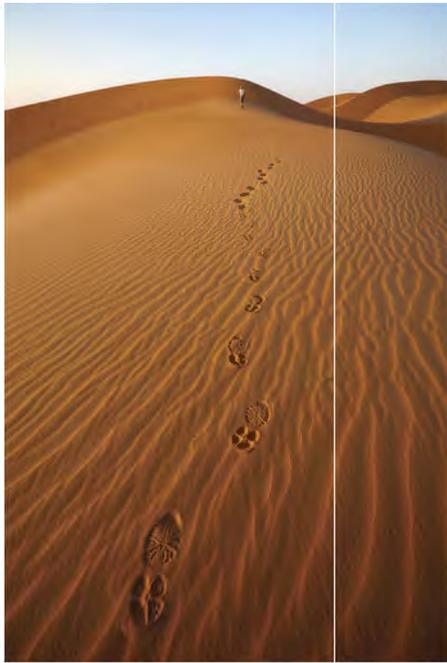
There are at least two major shortcomings with this advice. First, do you want to be bound by the dreams of your child self? I cannot speak for any of you, but the child version of me was a ridiculous person. When I was in third grade, a bunch of my friends became enamored with *The Guinness Book of Records*. What are the most pool balls held in one hand? Where is the smallest chess set? What is the fattest cat of all time? Somehow we got it into our heads that we were going to set the world record for the most people on a single playground swing at one time. Every day we would assemble at recess and try to crack the code of suspended dog piles. Never mind that this record did not exist, nor that we weren’t savvy enough to establish ground rules for setting the record. We were consumed by the idea of having a world record appear in *The Guinness Book of Records*. Let’s just say that it never happened. Frankly, I don’t remember having strong career aspirations as a child, but I am pretty sure any thoughts along those lines were as silly as trying to set the world record for swing piling.

A second problem with Covey’s advice is related to the first: you probably do not have enough information, experience, or vision to chart your path far into the future. Recall that Bryan Stevenson, after one year of law school, was not sure he wanted to be a lawyer. He wrote:

Not long after I started classes at Harvard I began to worry I’d made the wrong choice. Coming from a small college in Pennsylvania, I felt very fortunate to have been admitted, but by the end of my first year I’d grown disillusioned. . . . The courses seemed esoteric and disconnected from the race and poverty issues that had motivated me to consider the law in the first place.¹¹

Though I loved the intellectual environment of law school, I also had a hard time finding my place as a lawyer. After working at a small business law firm in California during my 1L summer, I worked for two of the largest firms in the country in the East during my 2L summer. As we moved our small family from one city to the other in the middle of that summer, I wondered aloud to my wife whether I had made a mistake in going to law school. Fortunately, at the end of that summer, after trying every way I could imagine to find meaning in a litigation practice, I worked on a corporate transaction and found my calling. (For those of you who wonder how corporate transactions can feel like a calling, we probably need a separate conversation.)

Thus, rather than “Begin with the end in mind,” I suggest the following maxim: “Just begin.” Just throw yourself into your studies, trusting that you will discover your calling. Do not emulate the narrator of Robert Frost’s famous poem, who is still wondering



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about “the road not taken” “ages and ages hence.”¹² Instead, learn to trust your present intentions. Learn that God speaks to you through your thoughts and righteous desires, even if He does not reveal the whole path of your life.

Cocreating the Path of Your Life

This last idea is one that we have the freedom to share because we are at a religiously affiliated law school, and I would like to say more about the role of God in this process. Often we think about “finding our path,” as if we are searching for our divinely ordained place in the universe. Perhaps God creates our path spiritually, and the purpose of our lives is to find and follow that path. My observation has been, however, that people who embrace this view are often paralyzed by the belief that they have irremediably fallen off the path or that they have wasted too much of their lives frolicking off the path. They wonder, “How can I ever make up for lost time?”

Whatever role God plays in our lives, I am absolutely convinced that he would not want us to despair. Earlier this year, when reflecting on the path of my own life, I came to the realization that no one had lived my life before and that no one would live my life in the future. My path is unique. No one has lived exactly where I have lived, has exactly my collection of family members and friends, has read exactly the books I have read, has worked exactly where I have worked, or has served exactly where I have served. No one else has made exactly my mistakes, and no one shares exactly my fears and insecurities. My path belongs to me alone.

This rather obvious observation opened my mind to the possibility that the path of my life does not yet exist and that one of my tasks in this life is to create that path. This, it occurred to me, is the essence of agency. In creating that path, however, God has not left me alone. He has offered to become a cocreator of the path of my life. I am reminded of a recent devotional address by Erin Kramer Holmes, a BYU professor in the School of Family Life, who stated: “God is not a dictator; instead He is a cocreator. His plan includes creating a remarkable life *with us*.”¹³

All of us are familiar with this famous exchange between Alice and the Cheshire Cat:

“Would you tell me, please, which way I ought to go from here?”

“That depends a good deal on where you want to get to,” said the Cat.

“I don’t much care where—” said Alice.

“Then it doesn’t matter which way you go,” said the Cat.

“—so long as I get somewhere,” Alice added as an explanation.

“Oh, you’re sure to do that,” said the Cat, “if you only walk long enough.”¹⁴

We generally read this story as an indictment of Alice, and we think that she should have come to the Cheshire Cat with a destination, but I am sympathetic to her. If Alice made a mistake in this story, it was not in asking that question but rather in asking a cat! How many times, in one way or another, have I asked God the question “Would you tell me, please, which way I ought to go from here?” I believe that is a question we should continue to ask throughout our lives, not only for those big career decisions when two roads diverge but time and time again.

Conclusion

The study of law will expand your vision and your opportunities. Unlike graduate study in most disciplines, in which students become increasingly focused, law students are exposed to new possibilities for their careers in almost every course. If keeping your options open seems like a high value, this is an enticing attraction to law school. For some students, however, this abundance of opportunities leads to indecision and paralysis. I suggest that you need not see very far into the future. Trust that your thoughts are promptings, and take whatever next step



you feel inclined to take. And when you have taken that step, take another. And another. Just begin, and before long you will find that your life has become surprisingly awesome.



NOTES

- 1 Psalm 23:3.
- 2 Matthew 7:14.
- 3 1 Nephi 8:20; *see* verse 19.
- 4 D&C 3:2.
- 5 Bryan Stevenson, *Just Mercy: A Story of Justice and Redemption* (New York: Spiegel & Grau, 2014), 3.
- 6 *Id.*, 8–10, 12–13.
- 7 *Id.*, 17–18.
- 8 *See* J. Reuben Clark Jr., “To Them of the Last Wagon,” in *Conference Report*, October 1947, 154–60, reprinted in *Ensign*, July 1997.
- 9 Stephen R. Covey, *The 7 Habits of Highly Effective People: Restoring the Character Ethic* (New York: Free Press, 2004), 95.
- 10 Stephen R. Covey, “Books: The 7 Habits of Highly Effective People, Habit 2: Begin with the End in Mind,” www.stephencovey.com/7habits/7habits-habit2.php.
- 11 Stevenson, *Just Mercy*, 4.
- 12 Robert Frost, “The Road Not Taken,” *Mountain Interval* (New York: Henry Holt, 1916), 9.
- 13 Erin Kramer Holmes, “Waiting upon the Lord: The Antidote to Uncertainty,” BYU devotional address, 4 April 2017.
- 14 Lewis Carroll, *Alice’s Adventures in Wonderland* (New York: Dover Publications, 1993), 41.