

CHARLES J. OGLETREE, JR.: ROLE MODEL, MENTOR, TEACHER

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I had the privilege and great fortune to work with—and learn from—Charles Ogletree throughout my professional life as a lawyer and law professor.

When I arrived at the D.C. Public Defender Service (“PDS”) as a brand-new staff attorney, filled with enthusiasm but with no practical lawyering experience under my belt, Tree (as everyone at PDS called him) was a staff attorney in the office, on the verge of receiving the first of several promotions to ever-higher supervisory positions. Although he had only been at the office for two years, he already was a legend in the D.C. Superior Courthouse for his formidable skills as a lawyer and the many victories he won inside and outside the courtroom for his clients.

In the first few weeks on the job, as the other new PDS lawyers and I progressed through PDS’s carefully structured training program, we learned where to go for the best training of all: to courtrooms in which Tree was handling trials, to watch him work magic in the courtroom. With razor-sharp cross-examinations that wrested concessions from the most recalcitrant of witnesses, direct examinations that elicited witnesses’ accounts with the seeming comfort and ease of a conversation, and eloquent opening statements and closing arguments that demonstrated the power of rhetoric and the efficacy of metaphor, Tree showed us what courtroom advocacy can be at its very best. Equally important, we learned—from watching Tree and talking with him about his cases—about the essential work a lawyer must do outside the courtroom to prepare a case for trial and to represent clients with the highest degree of skill and commitment. We were able to see the copious amounts of time he spent with clients and their families. We discovered that Tree routinely went with his investigators into the field to take statements from adverse witnesses and to interview defense witnesses. He avidly studied any aspects of forensic science relevant to his cases, developing the expertise necessary to cross-examine prosecutorial expert witnesses and to work effectively with defense experts. He worked around the clock to ensure that no stone was left unturned in the pursuit of information that might help at trial, or sentencing, or in negotiating with the prosecution.

Tree was extraordinarily generous in giving time to me and the other new lawyers. His office door was always open and he was always willing to put down whatever he was doing to answer questions, discuss trial

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strategy, review a draft of a witness examination, listen to an opening or closing, and to offer feedback. If we needed to prepare a client for testifying by subjecting the client to a grueling mock cross-examination, Tree was always willing to help out and to do so in his characteristically thorough way by learning all about the case beforehand and then conducting the mock cross. It was only later that I learned that Tree was handling one of the highest caseloads of any of the felony attorneys in the office and that he was managing to help us with our cases even as he himself was fielding a staggering caseload of his own.

In the ensuing years, I had the chance to work more closely with Tree, as we co-counseled some cases, including a month-long first-degree murder trial and an appeal in the U.S. Court of Appeals for the D.C. Circuit that challenged the constitutionality of a criminal sentence based upon a novel issue of freedom of association. Much of what I came to understand about lawyering and professionalism—and what I pass on to my own students—I learned from Tree.

As I reflect on those years, I think that perhaps the most important lessons I learned were about the lawyer's professional role and the obligations a lawyer owes to his or her client. In watching Tree interact with his clients (and particularly when those interactions were with the clients we shared in co-counseled cases), I was able to witness first-hand the remarkable empathy he had for his clients, the profound respect he accorded them, and the many ways in which he treated his clients as a collaborator and friend. Many years later, in a groundbreaking law review article about the nature of the public defender's role, Tree wrote about his relationships with clients and explained that he "did not draw rigid lines between [his] professional practice and [his] private life, and that he took phone calls at all hours, helped clients find jobs, . . . attended [his] clients' weddings and their funerals, and when clients were sent to prison, . . . maintained contact with their families."¹ I observed Tree engage in these relationships with clients and their families, and I learned from his wonderful example.

I left PDS and began teaching at NYU Law School at about the time that Tree left PDS and began teaching at Harvard Law School. As a result, I have had many opportunities to talk with him about teaching and legal scholarship and again to learn from him and to benefit from his breadth of perspective and deep insights. I have often been struck by the fact that, in moving to Harvard from PDS, Tree has continued to play the same role that he did at PDS but on a vastly broader stage. As he did when he was at PDS litigating cases, he has fought valiantly on behalf of clients and causes, but now on a national scale with clients like Professor Anita Hill and causes like the reparations movement. Just as he taught and men-

1 Charles J. Ogletree, Jr., *Beyond Justifications: Seeking Motivations to Sustain Public Defenders*, 106 HARV. L. REV. 1239, 1272 (1993). As Tree explained in the article, deep empathy for clients enhances a defender's effectiveness both because it provides a sustaining motivation (*id.* at 1274) "in the face of staggering caseloads, tremendous time pressure, limited resources, and [in some offices] inadequate training" (*id.* at 1240) and sometimes "[personal] doubts about the sanctity of [the] mission" (*id.*) and because "the quality of a lawyer's representation often will improve when she takes an empathetic view of her client" (*id.* at 1274; *see id.* at 1274–75).

tored new lawyers at PDS, Professor Ogletree has been doing so to countless Harvard law students. He has been able to reach an even wider audience through his scholarship. His books and articles cover some of the most crucial and complex issues of criminal justice in this country and abroad. Professor Ogletree has helped shape the national discourse on these subjects as well as other vital issues of civil rights and civil liberties, and he has continued to serve as a critically important voice for the underrepresented and the disempowered. His writings on lawyering and professional responsibility have contributed to the profession's understanding of key aspects of the professional role and the academy's teaching of these subjects.

What I also realized, by talking with Tree's Harvard Law School colleagues and students, as well as the many faculty members at other law schools who come to Tree for advice, is that he has also managed to continue his remarkable juggling act of serving as mentor, role model, and support system for others, even as his workload has increased exponentially. As he rushes between the classroom and the many arenas in which he regularly appears (arguing on behalf of individual clients or organizations in court, speaking at conferences, giving workshops to lawyers, serving on boards of public interest law organizations and educational institutions, and so many other types of projects, causes, and commitments) and as he cranks out books, articles, briefs, and op-ed pieces, he somehow finds the time to speak to everyone who seeks his advice or counsel. Just as he did at PDS, he is always ready to generously give his time to anyone who needs help, even though the number who seek his assistance or guidance has swelled to overwhelming proportions.

In the article on public defenders, Tree ended by expressing the hope that the academy and the profession "will develop a better understanding of what techniques best promote empathy and heroism in students and lawyers."² I know one foolproof technique: watching Charles Ogletree in action! The many years in which I have been watching and learning from Tree have taught me the most important lessons I can possibly imagine about lawyering, professionalism, morality, and humanity, and have given me a model of a lawyer and teacher to which I can aspire.

2 *Id.* at 1294.

