



Use of Psychodramatic Techniques in Lawyer Training: The Beginning

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I am standing outside the Ramada Inn Snow King Lodge in Jackson, Wyoming on an early fall morning in 1978, the Tetons towering before me. Being a Wyoming boy, those mountains are part of my soul and a comfort to me. The rising sun is reflecting off Snow King mountain just behind me. The crisp, cool mountain air is a welcome change from the heat and humidity I had left the day before in Houston.

Standing there in all that beauty, I am absolutely scared to my core. On this morning, we will start the first-ever lawyer's psychodrama program. It has never been done and I am filled with anxiety at what lays before me on this day. A coiled rattler at my feet would be a comfort in comparison. I know how to deal with a rattler. Whatever this psychodrama was, it was going to be new.

I wait for Gerry to arrive, hoping he will calm me a bit.

I stand there and worry about the schedule. Every program the National College of Criminal Defense Lawyers and Public Defenders has ever done had a schedule. I knew I needed to have one for this program, which the National College was sponsoring. A schedule brings comfort. It tells us what we are doing every hour and when we have breaks and such. So, I made one up. The psychodrama "schedule" for this program has segments devoted to specific trial skills: voir dire in the first session, then opening statement and so on. Some comfort it is.

Other than that, nothing.

I feel the Wyoming autumn on my face and wonder if that schedule has any *real* meaning whatsoever. I feel anxiety balling up in the pit of my stomach as I silently realize it really does not. I reflect on my many trials. They all started with fear and anxiety. A leap into the unknown is always difficult. This one just felt that much harder. The cliff was higher. As I stand there, I peer into the chasm.

Gerry arrives and we talk for a while. I explain my fears and I am relieved to hear Gerry say he shares them. They become real and manageable at the same time. Gerry assures me that we will find a way.

We walk inside, into a large conference room, where about 50 students have gathered to learn what this psychodrama thing is all about. It was billed as "*The Criminal Trial: A Psychodramatic Analysis.*" In hindsight it was a pretty lousy name. How in the hell would one "psychodramatically analyze" a criminal trial? Don Clarkson, the psychodramatist who will be facilitat-

ing this first-of-its-kind seminar, even asks me where I came up with such a silly and meaningless name.

As I reflect back on it now, I remember hoping this seminar title would remove some of the anxiety that the word "psychodrama" was certain to produce. Our students came from all across the country—some just wanting to visit Jackson, I'm sure, but most with a level of trust having attended our previous programs. They had **no** idea what was about to happen.

And, neither did I.

I stood in front of those students in that large room and tried to introduce the program. I was shaking visibly as I stood there and began to speak. I have no memory of what I actually said. I was very worried about what they would think of the program and think of me as a consequence. Many of them were friends I had known for some time; friends who knew me, liked me, and trusted me. I had visions of people completely losing it mentally and needing some kind of in-patient treatment or long-term therapy. I worried that the College could be sued for causing someone to have a nervous breakdown. Neither Gerry nor John Johnson (who was also present) nor I had ever seen a psychodrama. We were about to see our first one in a real setting.

Fear of complete failure was there for me in spades. It appeared to me that neither Johnson nor Spence displayed any of the fear that was ricocheting around inside my ribcage like an errant Winchester round. I was wrong, of course. We were **all** worried even though Don had assured us that all would be okay. But, what did Clarkson know? He had never done a program like this with lawyers. He didn't know how judgmental and unforgiving lawyers could be.

It began with a gentle warm-up conducted by Clarkson. I can say gentle *now*, but it didn't seem gentle at the time. I only realize it was gentle in hindsight. I was, at least, comforted by the trust I felt coming from the students. I guess they believed we knew what we were doing. Clarkson did, but, as I learned later, he had a high level of anxiety over whether he could take us to the place we hoped Psychodrama would take us. It was new for him, too.

The warm-up did exactly what it was supposed to do and eased us all into ourselves. It went okay. I gained confidence that nothing really bad was going to happen. Then Don asked everyone to sit in a circle and think of someone, living or dead, who they would like to talk to; perhaps someone with whom

they believed they had some unfinished business.

What was *this* about? How did this relate to training lawyers? People started naming their person. Some named Thomas Jefferson, John Kennedy, Winston Churchill or Ghandi, or some other such person. Some were more personal. Don set up an empty chair and picked a student who had something to say to his dead father.

Then it started.

In five minutes, literally, the student was in tears, sobbing loudly and I was absolutely mortified. Everything I feared was coming true. How was Don going to stop this and get it under control? The student seemed to believe he was actually talking to his dead father. What was this, *what was going to happen next?*

As this first exercise moved through a typical psychodrama progression, bringing others into the drama as auxiliaries and finally closing with a lot of sharing among other students, I started gaining some comfort. The connection with lawyering was still vague, but I was less afraid. We went through several more “empty-chair” exercises, some mild, some with tears and anguish. Students were having experiences that we could see were important and significant in learning about themselves. They were dealing with long-suppressed feelings. The power of psychodrama was emerging.

Amazingly, after the first break, **all** the students returned.

Because we were lawyers and I was searching for a new way to train lawyers, my anxiety caused me to gently move Don into courtroom scenes. We needed to show the students some “lawyer relevance” to what we were doing; a concern that continues to percolate within our programs even to this day. We did the difficult Judge. We did the insensitive Prosecutor. We did jurors. We did role reversals to give insight into the other actor in the scene. We learned about doubling and soliloquy. The magic began to appear in ways very relevant to our frustrations in the courtroom. We gained confidence that the method was working as a training tool.

Moreover, we were getting very positive feedback from the participants. As we got to the closing on Sunday, we were hearing from participants that lives had been changed by the experience. Many said they would never be the same in either their personal lives or in the way they tried cases in court.

Several from this group attended every other psychodrama program that the College sponsored. They had gotten into it and wanted more. And they got more as we slowly learned and made improvements. And we made some great lawyers in the process.

It was a learning experience for the students, but an intense learning experience for Johnson, Spence and Ackerman. Getting from the National College trial practice lawyer to the lawyer we

were trying to create was a journey. We learned how to help those students learn about themselves; to get in touch with themselves and their feelings. By getting there we were able to create an understanding or empathy between the lawyer and other significant players in the courtroom. Psychodrama allowed us to turn the psychodramatically created courtroom into a laboratory where the action we initiated felt real. Judges felt like Judges. Jurors felt like jurors. Getting in the others’ shoes did this by letting us feel who they were as human beings. As we watched our lawyer-students struggle we watched them learn.

It was from **the struggle** that learning emerged.

Being honest about their feelings when addressing other courtroom actors was magic; a breakthrough. Judges were being told how their rulings made the lawyer “feel.” Students were sharing their feelings with jurors. Although Spence had been telling our students for years that law school had robbed them of their humanity, they were seeing it and feeling it in Jackson

on that fall weekend in 1978.

The shackles of law school were falling away and human beings were emerging. They were on their way to becoming persons that juries would like and trust. Juries would see humans, not lawyers.

After the Jackson experiment, psychodrama programs became a part of our regional training. We did at least three more before I left the National College in 1982. Each was three days of pure psychodrama. We were not breaking into small groups for skills exercises; this came later. Each program was a learning experience for those of us trying to

train. As our fear diminished, we would push them deeper and we all learned as a result.

The power and beauty of psychodrama was made starkly clear to me during our third program in Monterey, California. An older, silk-stocking criminal lawyer attended from San Francisco. He was everything that lawyers thought lawyers should be. He was nationally known. He was elegant of manner. He alone wore a suit and tie to all the sessions...except the *last* on Sunday morning.

I will call him Harold.

Throughout Friday and Saturday we would hear Harold from the back of the room grumbling about the bad language he was hearing; inappropriate for a group of lawyers, he said He wasn’t connecting what he was seeing to the training of lawyers or to being “lawyerly.” He felt we were not acting like lawyers should act. Those reactions worried me. Harold was well-known and respected by members of one of the college’s sponsors. I was afraid he would give them a bad report about this psychodrama thing.

Then Sunday morning came. I first noticed that Harold was not wearing his suit and tie. He was casually dressed, almost as

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casual as the rest of us, but not quite, more golf-like.

For the last hour, Don Clarkson had set up a barrel at the front of the room and explained to everyone that it was the place to dispose of something they brought there and wanted to leave behind. People began leaving behind aspects of their behaviour, parts of themselves, troublesome bits and pieces they had discovered and no longer wanted to carry as burdens.

Finally, near the end, from the back of the room came this very loud, *"F**k it."* It was Harold, the bad language critic. He walked to the barrel and began peeling something from his body starting at the back of his heels that we could only see in our mind's eye. As he literally shed his skin before us all he said: *"I have been wearing this goddamned shell for my whole life, I am sick of it. I will wear it no more."*

With that he threw that now almost-visible shell into the barrel and returned to his seat. Everyone was stunned. No one tried to follow that and the program ended on what was for all a very high note. The magic of psychodrama filled the room; it was palpable.

A few minutes later I spoke privately with Harold to try learn what had happened. He told me that during the night he had slept little. He said he had the most intimate, caring and loving conversation with his wife that he had ever had in their many years of marriage, and that it lasted most of the night. Their relationship had changed. Harold was changed. He looked relaxed. His face had relaxed. His eyes were larger and clearer. His posture was relaxed. One could actually see the change without any words from Harold. If the change held we enhanced the balance of Harold's life. I suspect it did,

Such visible change is not unusual in psychodrama. We have seen it many times. I observed it most recently at the TLC Death Penalty program in June, 2011.

The National College sponsored no more psychodrama programs after I left for private practice in Houston in 1982. That saddened me. I had hoped it would continue. Psychodrama was, however, a scary term; a scary concept. It remains so for many. It was apparently too scary for my successor.

The National Association of Criminal Defense Lawyers did a few such programs in which I was not involved, perhaps as many as three or four after the College stopped. This was primarily due to the urging of one of my assistants who had joined the NACDL staff.

And then no more until The Trial Lawyers College commenced in 1994.

So, what led me to stand out there surrounded by the mountains on that fall Wyoming morning in such a state of panic and apprehension? What was the journey that got me to that spot?

In the late summer of 1975 I was practicing law in Casper, Wyoming. I received a call from Tony Friloux who was the Acting Dean of the National College of Criminal Defense Lawyers and Public Defenders in Houston, Texas. In 1973 I had attended the first session of that College held at the University of Houston. I returned for the 1974 session as a member of the Resident Faculty. Friloux's call asked me to move to Houston to be Associate Dean of the College with the understanding that I would be on the inside track to become its first permanent Dean. At the time I was working part-time as Wyoming's first Public Defender. I resigned that position and headed for Houston arriving in November 1975. In the Spring of 1976 I was chosen as permanent Dean.

For its first two years the college ran a three-week lecture-based program. It was clear to me after my experience in those programs that the lecture method was not effective for training lawyers to be competent in criminal defense. It was very good for allowing students to catch up on their sleep from the previous night's activities, however.

I suggested to Mel Lewis that we needed to find a better way. I had asked Mel to join me as Associate Dean from his faculty position at John Marshall Law School in Chicago. He suggested a training method being utilized by the National Institute of Trial Advocacy. Basically, it had students practicing trial skills in small groups under the guidance of experienced practitioners. We instituted a modified version of that program starting in the

summer of 1976. We used actors and actresses to play juror and witness roles. Each day there was one lecture, one demonstration and six hours of small group practices. We ran two two-week sessions instead of the one three-week lecture program. This model continues today in that program, an effort now headquartered in Macon, Georgia.

After the two sessions in the summer of 1976 I went off to Rapid City, South Dakota and represented Russell Means in a murder trial. The National Jury Project sent a young woman named Cathy Bennett to assist me with the jury. It was her second-ever job as a jury consultant. She changed my entire approach to jury voir dire. I learned the difference between thinking and feeling. I learned to share my feelings with a juror in an effort to get them to share with me. I saw the simple power that came with that. After that trial, Cathy became a regular in our pre-TLC programs and finally a legend in the jury consultant business. That experience was important in what followed.

Back at the National College, as I observed and participated in its sessions, I noticed that students were trying to copy the trial skills that were being demonstrated. They were trying to be carbon-copies of Al Krieger, or Gerry Spence, or James Shel-

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low or whoever had impressed them with their demonstration. The Kriegers, Spences and Shellows were, however, not trying to mimic someone they had seen, but had somehow developed their *own* skills from somewhere inside themselves. I wanted our students to find that path. I wanted to find a training method that would allow them to find the lawyers inside themselves like these other lawyers had done so effectively. I was hoping to find a way. But, I had no plan about how to do it. I was frustrated and without ideas. Even clueless, though, I *did* know even then that it would have to be something entirely different from anything I had seen or heard of before.

I discussed my goal with John Johnson, a psychiatric social worker from Lander, Wyoming who I had come to know through Gerry Spence. I knew he would at least understand my frustration with trying to find a way; that he would sense the goal toward which I was struggling. I asked John if he knew of any way to actually get there. I had previously discussed it with Gerry and he may have been the first person to recommend that I talk with John about it. Gerry shared and understood my quest. After a few weeks, John called me to suggest that he had some ideas and that we should meet.

During the National College's summer session of 1978 I invited John to come to Houston at a time when Gerry was also present to discuss his ideas. John, Gerry and I met at my home in Houston.

John had brought with him three copies of a book entitled, *Acting-In; Practical Applications of Psychodramatic Methods*, by Adam Blatner, MD. Although Johnson had no actual experience

with Psychodrama, he believed that this method could provide the answer. We discussed it that day and decided it was interesting and worth a try.

Psychodrama for Lawyers was born that afternoon on Briar-bend Drive in Houston, Texas.

By studying Blatner's book I got some idea about the tools of Psychodrama. However, the book does not even come close to preparing one for the magic and power that **is** Psychodrama. We placed our trust in John's recommendation and marched forward hoping we had found the answer.

The National College was governed by a Board of Directors. There were four directors from each of three national organizations; the National Association of Criminal Defense Lawyers, the American Bar Association and the National Legal Aid and Defender Association. When asked, I explained to the Board that Psychodrama was just an experiment; that we were going to try it out in a remote corner of Wyoming; that we believed it deserved a chance. I explained very little about it to the Board and perhaps not with *total* candor. I was very afraid they would

quash it if they heard only a dry explanation of the method. (Then, as now, psychodrama is something that has to be experienced to receive glimmers of understanding as to its power.)

They decided, however, to allow the program.

Over the years I had known Gerry, he had frequently talked of starting a permanent college for trial lawyers. He was not looking at little three-day programs or even two-week programs. He was pondering a long-term training program that would dramatically change the quality of lawyers representing people in this country. Many ideas came and went. Then he participated in the Psychodrama programs with the National College and discovered what he believed to be the key to such training. Thereafter, it was just a matter of time.

In 1994, as we all know, Gerry started the Trial Lawyers College at Thunderhead Ranch near Dubois, Wyoming—a program in which the Psychodramatic method played a center-piece role. I was there helping for the first five years. Gerry's program combined Psychodrama with the trial practice methods first unveiled in Houston all those years before. Gradually Psychodrama found its way into the small-group trial practice sessions as we learned more and more about its diversity.

I then missed the next twelve years by going off to The Hague and defending accused persons in war crimes trials.

During those first five years we made important discoveries about the use of psychodrama, learning that it was much more than just a training technique. Many know this history. We learned about reconstructions of significant events in our cases

by using psychodrama. We learned about discovering the story using psychodrama and other techniques. We learned about preparing witnesses. We learned that we could even use psychodrama effectively in the courtroom. And we are still learning. I am convinced that if Moreno could have seen it, he would have concluded that lawyer training was the highest and best use of Psychodrama.

This story came back to me recently as I attended the 2011 Death Penalty program at The Ranch. It was my first time back there since the summer of 1998. The first morning back I sat in on a psychodrama session with Don Clarkson. I watched a person's life change there, in a few minutes. It was magic; it was beautiful and it brought me back to those early days. I felt like I had been on a long journey and had finally returned home to my old friends.

Later I sat in the cookhouse with Jude and Gerry and told them about my experience that day and then reflected back on the birth. They said I should write about it.

And so I did. ☺

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