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DEFENCE BAR

MEMBER PROFILE QUESTIONS

INTRO :

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Year of Call : 2014

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QUESTIONS :

1- How did you get into criminal law?

I started out as a reporter, but I was always interested in the law and found myself getting frustrated about reporting on legal cases instead of doing them, so I applied to law school. I knew I was interested in prison law, but the whole field of criminal law totally grabbed me from my first semester.

2- What type of cases do you enjoy defending the most and why?

I do a lot of appellate work, and I enjoy the challenge of picking apart a trial record and explaining where the trial judge went wrong in their ruling or reasons or charge to the



jury, and why that caused prejudice to the client. It's also very rewarding to be able to provide some relief to a client who feels strongly that they have not received a fair trial or a just outcome. Even where an appeal itself is not successful, the client often gets a lot of comfort from seeing someone make every submission that can be made for them, and from seeing a panel of judges listen attentively to those arguments.

3- How did the practice of criminal law change you?

It made me realize that almost nobody does bad things just because they are evil. The people who cause the most hurt and destruction are often those who have been through terrible things themselves for which they had no or inadequate support. I'm always struck when I start to gather background information for sentencing by how much trauma my clients have experienced before ending up in the criminal justice system, or sometimes as a result of their contact with the criminal justice system.

4- If there is one thing only you would like to see change in criminal law, what would it be?

We are keeping too many people on very restrictive bail conditions pending their trials and appeals. I really see the impact of this as a lawyer who does a lot of appellate work, because by the time clients get to me they have often been on bail for years. They're drained by the stress of police showing up at their house at random to do bail compliance checks. Their families are tired of them not being able to participate fully in family activities because they have a curfew or house arrest or can't leave the province. Their sureties are exhausted from the responsibility. And it often gets worse after conviction. Increasingly, Crowns are advocating for an increase in restrictions or obligations on appeal bails despite the person having been fully compliant with their release pending trial and not posing any specific safety or flight risk, and clients will sometimes agree to those conditions in order to get an earlier consent release. We really



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need to refocus on public safety, and on what conditions are actually necessary and responsive to that concern.

5- What advice would you give to your younger self when you first started practising criminal law?

It gets easier. When you're starting out, the sheer number of things you don't know yet can feel overwhelming. Every new file you take on presents some procedural, substantive and/or client management issue you've never encountered before. No matter how prepared you are for court, there's always a nagging fear that you're missing something important.

Around my 5th year I started to feel like I had my feet under me. There were still new things coming up all the time, but I had more of a knowledge and skills base to draw on so I could more easily and quickly figure out how to deal with them.

6- How do you deal with bad work days?

I rant and complain to my colleagues. I go home and hug my baby and build a fort with my big kid, and then I try to start over the next day.

7- What do you think of Zoom court?

It's okay. There are things I like about it. It has made it possible for me to take on files that I might have hesitated to do before because of distance. There's an informality to Zoom hearings that sometimes facilitates more of a conversational dialogue with the judge or judges. I like that I can share my screen when I want to take the court to evidence or transcript, and make sure we are all looking at the same thing.



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But it's not the same as being in a courtroom. There isn't the same energy. And I don't think it facilitates co-operation and collegiality between Crown and defence when our only interaction is to log onto Zoom court, make our submissions and then log off, where in the old days we would have set our differences aside for a few minutes and chatted before and after the hearing. I really feel that proceedings have become more adversarial over the last couple of years.

8- Any embarrassing court story you're willing to share?

A judge in Superior Court once rebuked me and threw me out of the courtroom because I had been chatting to someone on the way in and somehow forgot that I hadn't put on my gown and tabs yet. Mercifully I haven't made that mistake again.

9- Who is your role model/inspiration in criminal law ?

When I went out on my own very early in my career, (now) Justice Jill Presser was an incredible resource and mentor to me. She coached me through my first appeals, and we worked on several cases together before her appointment to the bench. She showed me how you can be respectful and courteous to everybody in the system while still being a fierce advocate for your client. I watched her argue many appeals, and learned something every time.

Peter Zaduk, who ran the chambers where I rented space when I first started out, was also a great mentor to me. He sent me a lot of work, and took me along on interesting cases. I learned so much from watching him conduct cross-examinations and jury closings, and from talking to him about trial strategy.



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10- What's your favourite song?

Losing my Religion by R.E.M.

11- How do you maintain work life balance and how do you deal with the stress of the job?

One of the nice things about being a sole practitioner with an appellate-focused practice is that I have some flexibility. I can work long hours when I need to and cut back a bit when I have a week that's a little quieter. I rarely get jail calls in the middle of the night.

I also try to maintain some separation from work and home so that I can give my brain a break from the stress of the job. Sometimes I turn the notifications off on my work email account in the evenings and weekends. I usually still check my email from time to time, but I find that less stressful than having my attention unexpectedly pulled back towards work whenever an email comes in. I disliked working from home during the deep pandemic, because it was so difficult to maintain any separation between work and family modes. Being able to leave some of the stress at the office helps.

14- What would your defence bar colleagues be surprised to learn about you?

That I grew up in Scotland. I moved to Canada a few years before I started law school. For a variety of odd reasons, I don't have a Scottish accent.