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William Sneddon
2022 British Pegasus Scholar Report

Despite being briefed for this scholarship twice before we arrived (our original placement in October 2021 was delayed due to COVID-19), when arriving in Washington DC, I don't think any of us had quite anticipated how jam-packed our schedule would be over the course of the placement. Not a moment was wasted during our six-weeks as, each day, we were met by the most amazing hospitality from a variety of people across the legal sphere including: politicians, judges, attorneys, police officers, lobbyists, and court clerks. Each person we met graciously offered us unique experiences along with their unique insight into the United States' legal system.

Despite the UK and US both finding their legal origins in the Magna Carta and only having diverged a mere 350 years ago, we observed stark differences between how our two jurisdictions operate. As an advocate accustomed to conducting criminal trials in front of juries, it was fascinating to see civil matters being determined by 12 – 14 jurors. In a criminal context, I was intrigued to see that defendants would always be sat next to their attorney regardless of their remand status. The attorneys I spoke with had little concern about defendants attempting to escape custody and reported such incidents as being rare and those that did try to escape were quickly subdued by the court security. Accordingly, they were particularly shocked by the prevalence of a "dock" within UK criminal trials. Similarly, the established tradition of judge's giving "summing ups" to juries found disfavour with my American counterparts. I found myself questioning whether either of these features of a UK criminal trial were still necessary given their absence in the American system.

Added to the above, there were stark differences to how an American jury trial operates. The leading example of this is the "*voir dire*" stage of jury trials, otherwise known as jury selection (not to be confused with the UK's *voir dire*, which is pronounced differently and represents the determination of a legal issue by the judge). Hours, if not days, of the trial are spent investigating the jury pool in order for both sides to determine which of the jurors would be most unfavourable to their respective cases and deserving of their preliminary strikes. Whilst some of the attorneys and judges eloquently argued for the merits of this part of the trial, I could not help but feel that this negated one of the core purposes of juries; namely that their random selection ensures that they represent society as a whole. This view was compounded by the numerous attorneys that we spoke with that claimed that many, if not all, of their trials had been won during the "*voir dire*" phase. Because of the importance of jury selection, there is a whole cottage industry of firms that assist with identifying the demographics and views of the jury members and, in some cases, attorney's will have their own "shadow jury" that effectively imitate the real jury and provide the attorneys with an insight into how the real jury is likely to respond to the evidence in the case. Naturally, the more one spends on jury investigation, the more control one has over the jury determination of the evidence leading to a divide between the rich and the poor.

In addition to the difference between our two systems, I was also struck by the differences in our styles of advocacy. The lack of any requirement to put one's case (i.e. the rule established in *Brown v Dunn*) was very apparent during cross-examination, with attorneys typically placing more focus on adducing the evidence they wanted rather than putting their respective cases. It was also notable that there

appeared to be much more interruptions (i.e., objections) during witness handling although with the dispute being determined much faster that in England and Wales (I was particularly intrigued by the use of "white noise" to allow for discussions in the presence but out of the earshot of the jury).

As with trial advocacy, the appellate advocacy was also markedly different. Unlike in England and Wales, the US appellate advocate's submissions were confined to a set time limit, usually between 10 – 20 minutes for each side and accordingly there was a much greater emphasis on the written submissions that were provided to the court beforehand. The prospect of an appeal taking days of advocacy was a wholly foreign concept to the attorneys and judges we spoke with and largely received with shock. Moreover, appellate law operates as its own practice area with it being relatively unusual for trial advocates to have conduct of an appeal, particularly with the appeals lodged in the higher courts. Having previously worked on appellate cases in Malaysia, I was somewhat familiar with the concept of appellate law as an exclusive practice area although I was extremely interested to learn of the "moot court" system within US appellate law. I was surprised to discover that appellate attorneys practice their submissions in front of other appellate attorneys (often in a law school setting) as a means of refining their written and oral submissions and better anticipating the question from the appellate bench. This is such an invaluable resource that some attorneys reported that they would do at least 2/3 moot courts before the appeal itself. Given the wider impact of appeals, particularly high money civil appeals, it is somewhat surprising that this practice hasn't caught on in the UK. One would have thought that the law schools in this country would embrace the opportunity to work with local barristers and give their students an opportunity to see real appellate advocacy as opposed to mock hypothetical situations.

Perhaps the biggest highlight for me was watching the "Re-entry" Court in Sacramento with Superior Court Judge Brown. During the morning, Judge Brown would discuss the progress of the offenders being managed by the Court with a prosecutor, defence attorney, probation, and social workers and in the afternoon Judge Brown would speak with each offender, offering words of encouragement to those attendees that were progressing well within the programme (bolstered by words of encouragement from the other attendees that had completed the programme). As a criminal practitioner, I have limited contact with my clients after sentencing unless they breach their sentence or are charged with fresh proceedings. Invariably, those that I do come back into contact with have often fallen back into bad habits and I can certainly see the benefit of the Court taking a more active role in managing defendants post sentence, and I hope that the drug courts already used in some regions in the UK will progress in line with this model. Whilst "re-entry" court cannot claim a 100% rate of rehabilitation and clearly requires a significant degree of investment from the state, it was clear that many of the attendees were succeeding within the programme with one graduate reporting that this programme was directly responsible for pulling him out of his cycle of committing offences to fuel his drug addiction. This model of rehabilitation was also emulated in the Mental Health Liaison Court where Judges also have the discretion to divert prosecutions of mentally ill offenders so that they receive treatment straight away. Those who comply with their treatment programme can avoid facing criminal charges. Given the prevalence of mentally ill people within the UK's criminal justice system, this would seem to be an innovative way of addressing the ever-growing backlog of cases within our system.

Aside from the legal focus of the programme, we were also given a large scope to experience the cultures of the American states we visited. For instance, in California, our hosts organised for us to experience the Napa Wine districts, Muir Woods, and for Lily and I to experience the famous Ahwahnee hotel within Yosemite (as seen in The Shining) as we were due to travel there after the placement. In Kentucky, we were taken to bourbon distilleries, horse farms, and the Red River Gorge. In DC, we were toured around the various museums and watched a variety of American sports including basketball (go Wizards!), ice hockey (go Caps!), and baseball (go Nats!).

On reflection of this report, I feel I have only managed to discuss a small percentage of the broad range of experiences that we have had and am truly grateful for all those who were able to make this scholarship happen. A special thanks to Cindy, Jesse, Britta, Erik, Richard, Lucinda, and Scotty, who all went above and beyond in organising our programme and facilitating our meetings. Added to this, I also want to give a huge thanks to our hosts: Ellen, Tim, Parker, Carol, Andre, and Jenn who all gave us a home away from home. Having returned with a fresh outlook on my practice and approach to advocacy, I would encourage any junior member of the Bar to apply for the scholarship.

2021 Pegasus Scholar - William Sneddon is a criminal barrister at 5 King's Bench Walk Chambers, London. He prosecutes and defends across all areas of criminal law in the Crown Court, Youth Court, and Magistrates' Court. He has also appeared in the High Court and Court of Appeal.

William previously acquired a range of specialist experience before commencing pupillage. Between September 2018 and September 2019, William worked for a boutique law firm in Malaysia, drafting submissions that were instrumental in achieving the exoneration of death row inmates charged with either murder or drug trafficking. Between 2013 and 2014, he spent 9 months in Mississippi, US, assisting with the investigation and preparation of capital defence cases. He also spent a year, between 2017 and 2018, practising civil law as a County Court Advocate.

William read law (LLB) at King's College London and completed the Bar Professional Training Course at Northumbria University. He was the winner of Northumbria University's mooting competition and received two Travel Awards from Northumbria University. He also received an Exhibition Award, an Internship Award, and the Ede and Ravenscroft Prize from the Honourable Society of the Inner Temple.

Outside of his practice, William is the Treasurer of the Inner Temple's Junior Bar Association and represents the Bar Council as a Social Mobility Advocate. William also sits on his chambers' Equality and Diversity Committee and regularly attends outreach events for underprivileged schoolchildren