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A TRIBUTE TO PROFESSOR DAN MARKEL

KEITH L. SAVINO*

The day I first met Professor Dan Markel I was prepared to walk into his office and tell him I was dropping his class. I was enrolled in his *Sentencing Law and Policy* seminar but had also recently been invited to become a member of the *Florida State University Law Review*. As a new member, I was required to write a lengthy student note, and I decided that completing papers for both Professor Markel's seminar and the *Law Review* in the same semester would be too burdensome and well beyond my capacity. In my mind, dropping Professor Markel's course was the obvious choice to lighten my workload.

After we exchanged introductions, I told Professor Markel about my dilemma and my "regretful" decision to drop his class. He told me that he understood my plight and was glad I came to speak with him. I was relieved that this awkward exchange was about to end, but Professor Markel continued. He looked at me and said: "The vast majority of law students in your position would do the exact same thing. They would take the easy road in the face of something difficult. Only a committed few would do both. Do you want to be in the majority, or do you want to see what you are capable of?" I was rendered speechless by Professor Markel's proposal. He told me to take some more time to weigh my options and said that he would know my decision in two days on the first day of class.

In the time that has passed since Professor Markel's shocking death, I have heard countless, similar stories of his unbridled passion and enthusiasm for pushing his students and colleagues to succeed and to reach their full potential. I decided to stay in Professor Markel's *Sentencing Law and Policy* seminar, and it became one of my favorite, and most rewarding, courses in law school. I was among one of the final two classes that he would teach, and given the small, intimate nature of my five-person seminar, I developed a wonderful relationship with Professor Markel. His mentorship and advice throughout that semester transformed my writing and legal reasoning, and I owe so much of my growth and maturity as a future attorney to Professor Markel.

Experiencing a Dan Markel class lecture was truly witnessing a force of nature at work. Within a few weeks of the semester I was convinced that he was the most brilliant person I had ever met, and I was continually awed, and oftentimes completely confused, by the ease with which he could posit and discuss complex sentencing law theory. During one lecture in particular, Professor Markel intricately explained the facets of his retributivism sentencing theory as applied

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to the character Jean Valjean from *Les Misérables*. After an almost fifteen-minute-long monologue on how Valjean fit the retributivist principles, I asked Professor Markel if he often used Valjean as an example to explain retributivism. Professor Markel laughed and said that it was just something that came to him off the top of his head. Like I said—a force of nature at work.

Beyond the confines of the classroom, the truly remarkable Professor Markel revealed himself further. Throughout the semester, we would meet every Friday to talk about my paper and to hash out ideas on how to improve my writing. It was through these discussions, oftentimes sprawled out on the couches near his office, that I came to know Professor Markel as the man, legal scholar, and loving father that he was. We went through many stages of the writing process together, and I experienced the brutally honest critiques and comments that he is famous for. I did not know how to react when he told me that my first draft was “mediocre at best,” or when there was a giant red “X” through three pages; but we eventually graduated to, “now you’re showing me what you’re capable of,” and then, “you’ve created something very special and thought provoking.”

It was through Professor Markel’s relentless desire to push me and to demand my best that I truly expanded my ability to think critically and to challenge conventional norms through my writing. The lessons and techniques that I learned from working one-on-one with Professor Markel have transformed my legal scholarship, allowing me to reach beyond my self-imposed comfort zone, challenge myself, and emulate his work ethic. We would often joke that Professor Markel probably never slept, given the amount of things he could accomplish in one day; but it was obvious from working with him that he strived to be the best in his field and had a staunch commitment to his work that few can claim.

A tribute to Professor Markel would be incomplete without mentioning some anecdotes that capture his personality and zeal for life, and I would like to share a few.

While I was writing my sentencing law paper, it was not uncommon to get an e-mail from Professor Markel at midnight or 1:00 a.m. with links to law review articles or *New York Times* op-eds related to my paper topic. He would include a quick sentence saying: “Thinking about your paper, started looking up some materials and came across this. Hope it helps.” I was always struck by these e-mails, and they speak directly to Professor Markel’s investment in his students. He was unequivocally devoted to our growth and progress to the point where he would analyze and think of ways to improve our work, even at absurd hours of the night. It was instances like this that made me want to work even harder for Professor Markel and to put the same level of effort into my work.

Professor Markel is well known for connecting people and for sharing his vast network of friends and associates, and he spared me no exception. When he found out I would be interning in Washington, D.C. over the summer, he took it upon himself to contact his friends who lived in the city; send me a complete list of restaurants to try; and recommend the best places for live music, good drinks, and somewhere to unwind after work. I was working in Washington, D.C. when I found out that Professor Markel had been killed. I will never forget walking out to the park across from my apartment and sitting on a bench for hours—numb—not wanting to believe the news I had just received.

Finally, the largest and, most important aspect of Professor Markel's life was his two sons and he used every opportunity to express his love and admiration for them. During one of our Friday sessions, Professor Markel was obviously distracted on his iPhone as he kept scrolling through something while wearing a huge smile on his face—one that expressed pure joy. Sensing my frustration, Professor Markel flipped his phone around and excitedly showed me pictures he had taken of a painting that Benjamin, his son, made. He told me that he was so overcome and happy by his son's artwork and that he could not stop looking at it. Professor Markel showed me more photos and boasted about how perfect his boys were—with that huge smile on his face the entire time. I am forever grateful to have witnessed this type of love a father can have for his sons.

The final time I saw Professor Markel, he invited our seminar class to his house for the traditional "final class dinner." We were looking forward to this final class all semester, which included dinner, personally prepared by Professor Markel, and then a group peer review of our papers. When I got to his house, Professor Markel was bustling around the kitchen in his socks, putting a vegetable lasagna in the oven, making homemade guacamole, and filling wine glasses. It was impossible not to notice the string hanging across the living room ceiling, holding Benjamin's and Lincoln's vast array of artwork.

Given the unsettling tragedy surrounding Professor Markel's death, I am comforted to have this positive, happy, and final memory of him. We spent the evening laughing over dinner and had a very thoughtful and encouraging peer review, led by Professor Markel's uncanny ability to facilitate discussion. I shook Professor Markel's hand as I left and he reminded me that if I ever needed anything over the summer, or if had any questions, law school related or not, he was always there.

Although six months have passed since his death, I still have to catch myself from walking up to his third floor office in B.K. Roberts Hall, wanting to tell him a piece of news or to ask for his advice. I want to update him on things in my life and to ask him whether he

agrees with my decisions about classes, job interviews, and plans for my future. While I have to remind myself that these things are no longer possible, I carry with me the things he said, the e-mails he sent, and the values of hard work and devotion he instilled in me. I will never forget Professor Markel, and I will do my best to keep his memory and spirit alive.