

Kris Turner: Hello, and welcome back to Wisconsin Law and Action, a podcast where we discuss new and forthcoming scholarship with the University of Wisconsin Law School professors. I'm your host, Kris Turner, and my guest today is Clinical Professor Steven Wright. Professor Wright is the founder of the Constitutional Litigation, Appeals, and Sentencing Project or CLASP, and is the former co-director of the Wisconsin Innocence Project. His writing on race, criminal practice, and procedure, the courts, and civil rights has appeared in among others, The New York Times, Washington Post, National Public Radio, and the Associated Press. Today, Professor Wright is here to discuss his clinical work with CLASP. The clinical teaching process differs from doctrinal law school classes and the newly founded CLASP clinic provides a great opportunity to discuss what the clinic does, who they work with, and the professor and student experience. So with that, thank you for joining the podcast today, Professor Wright.

Steven Wright: Thank you, and it's a pleasure to be back for my second visit.

Kris Turner: I know. We're going to revisit that first visit later on in this discussion. First, let's turn to the clinical work. Thank you for joining us again. Let's start by bringing listeners up to speed on your professional backgrounds. What's your experience in the legal field and academia?

Steven Wright: Yeah. So I was one of those students, like a lot of our students who didn't really know what I wanted to do, and a professor when I was an undergrad has suggested a couple of things, but one of them ended up being law and a lot of my friends were going to law school. That was what people were doing. I had a lot of interest in politics, and policy, and laws, and rulemaking. So I went to law school, but once again, I went to law school not really knowing what I planned to do. I didn't take any particular course set, designed actually to advance my career. I took courses that basically interest me, and so after I got done with law school, I did pretty well. And so my law school's clerkship committee reached out and suggested that I apply for clerkship, and I got very lucky and I was able to clerk for a judge, the Honorable Lavenski Smith, who I believe is now the chief judge of the Eighth Circuit.

Then he was actually a fairly new member of the Eighth Circuit when I had the honor of joining his chambers. And that was really just a transformative experience for me, being able to sit beside and work beside a federal judge. And we had two other clerks who were just exceptionally bright and thoughtful people. And the great thing I tell students about the federal court docket is you get to see a little bit of everything. And so there was criminal law, there was sentencing, there was immigration, there were discrimination cases. The Eighth Circuit is in the middle of the country, Minnesota to Arkansas plus the Dakotas and Nebraska. You get a lot of agricultural cases. South Dakota gives you a fair number of Native American issue related cases. So you get to not only learn about all these different substantive areas of the law, but you often have very good practitioners.

So you get to read excellent briefs, you get to see some excellent oral arguments. And the judges are just, the Eighth Circuit, at least was, and I believe it still is a

fairly congenial circuit that all the judges know all the names of the clerks. And so overall, it was just a very great experience. I left that and I was fortunate to become an honor's attorney for the United States Department of Justice. I served in both the Bush and Obama administrations. It's a weird job. I was in the Civil Rights Division, the voting section. It's a weird job where they give a 28-year-old a great deal of power to shape local elections. We had a docket. Your first year, you're fairly closely mentored. I reported to two or three deputies, some of whom became very close friends or remain very close friends, and the docket is nationwide.

So if there's a problem with the dogcatcher election in backwoods name that state, I probably shouldn't pick on any particular state. You're on an airplane there and you're monitoring elections and you're seeing whether people's constitutional right to participate in our democracy was somehow threatened or abridged. And a lot of that is going into communities, building relationships, talking to election administrators, talking to candidates, and figuring out what went well and what didn't go well and if there were violations of either the constitution or federal law, whether there was a role for the United States Department of Justice to help fix that. And I would say 80%, 90% of the time my experience was... Jurisdictions were trying their best. We don't fund elections here as well as we should, and sometimes you get, back then, obviously times are changing, you would get a very partisan streak in election administration. But most of the time it was just good people trying to do their job and try to help their community.

They either just needed better training on what the standards were. Sometimes they needed more money from their jurisdiction and a kick in the butt from the Department of Justice, and sometimes a court order can help accomplish that. Now, I want to be perfectly clear that even back then there were very partisan issues. I was there for the 2010 redistricting as well as the proliferation of voter ID cases as well as I was there, I did a lot of what used to be Section 5 of the Voting Rights Act, which is Supreme Court later dismantled. So there were a lot of... I don't want to say that there weren't a lot of partisan issues. I am not trying to look back with rose-colored glasses, but obviously the nature and the tone of elections was very different. So I did that for about five, five and a half years.

And then as I mentioned before, I think on the previous podcast I left that. I had always wanted to be a writer, and so I came to Wisconsin. I was in an MFA program. And once that program ended, I was very lucky. Keith Finley, Carrie Sperling, and Margaret Raymond hired me for a year or two to serve as a lawyer at our local Innocence Project here in Wisconsin. It's a great Innocence Project. We have a proud tradition of exonerations. I think last count we had, I want to say, maybe even in the high 40s over our 30 years existence, and I did that for about five years until the pandemic rising up to become a co-director. When Keith Finley stepped down from a remarkable run, I took over or I tried to take over. And then after a while I decided that I wanted to form my own clinic. And so that brought us to CLASP.

Kris Turner: A perfect segue to my next question. Thank you for that. And that is, I think I picked up a few breadcrumbs in there, but my question is, what inspired you to found the CLASP Clinic?

Steven Wright: So I think there were a number of factors, both Dean Raymond and Dean Tokaji presided over a law school during a period where clinical education around the country was transforming as a whole. Wisconsin had a great tradition of what we call the three semester program or three semester clinical program, sometimes also we called it a 12-month clinical program. And if you go out into the community and talk to lawyers, particularly lawyers who were in, say, the Remington Centre or EJI, they just think so fondly about those experiences. It was really one of the most decorated and celebrated parts of our clinical tradition. But there were tremendous tradeoffs in doing it. And as you'll recall, you and I sat on a committee where Dean Tokaji asked us to examine what were some of the national trends in clinical education.

And so, a number of things that we considered on that committee and that we talked about was, first, asking students to commit for an entire 12-month period that's six months during the semester or during the summer, and then four to six credits during both or each of the fall and the spring was a lot. 18 credits considering that the majority of students need 60 credits to graduate, about a third of those will be allocated in the 1L period. And then the majority of our students go on to do the graduation requirement combined with the 18 credit commitment that did not leave students a lot of wiggle room. And students need wiggle room for all sorts of very appropriate reasons. Sometimes you just don't want students overloading, but a lot of it also is just an intellectual academic philosophy that we want students to experiment. We want students to come in. You may be a die-hard criminal law person, but it's a good thing if you take a IP class or business class.

Laura knows my parents who were both small business owners, wish I had taken more contracts in business classes. And so, it was an opportunity for students to spread their wings and try other things. Our report, as you'll recall, also found that we were really an outlier in that three semester tradition that the overwhelming majority of schools were offering one or two semester programs with, I believe, disproportionate number of those offering one semester programs. Those programs were small and intensive, but they gave students a very good foundation in working with clients, understanding the case law, but they didn't quite require as much of a commitment. And so, I think there were a number of factors that ultimately led the law school to want to start experimenting with clinics that are outside that three semester tradition. And so, both class, which I found and we received funding from the legislature for the VOCA clinic, the restraining order clinic, we started those around the same time both with the idea to see, "Could we make a one semester clinic work?"

Kris Turner: I can answer that question is that you can make it work and it has been working so far.

Steven Wright: Yeah. I think... Or perhaps even the better question was, "Could we make it work here in Wisconsin where we had a pretty smooth running three semester

program?" And also, "What was the feedback from the students?" And not only did we make it work, it seems to be fairly popular with the students. In addition to some of the other things we've discussed for a lot of our students, it frees up opportunities to do summer. So especially as Wisconsin continues, I think about half of our classes from out of state, it allows those students to go back home and start exploring job opportunities and the communities that they want to or if they want to move to Washington or New York or Chicago to start exploring opportunities there.

Kris Turner: Yep. I like the way that you put it that this is a good way to encourage intellectual curiosity as well, where that 12-month commitment would have maybe potentially hindered that. Since I teach a couple of classes that are not required that our experiential learning, I really do appreciate the ability for the students to join these classes, and I think that really speaks to that. But I also want to speak to the committee that you mentioned and we also... Yeah.

Steven Wright: And we should make a plug for your class.

Kris Turner: We can do that.

Steven Wright: Would be nice if you take it. It is an excellent research opportunity. So for people who particularly interested in either academia or appellate law or the library and sciences, take the class. Take the course.

Kris Turner: Thank you. I appreciate that. I'm going to get that one written down and make sure-

Steven Wright: We can blurb it in the next school catalog.

Kris Turner: All right, that's good. That's right on the front cover of the catalog is what I'd say. Thank you. I appreciate it. But you mentioned the students are starting to appreciate the one-semester clinic and that they find it very popular and enjoy it. So what tasks are they asked to complete while working in the clinic? What's it just a day in the life for them?

Steven Wright: For class, so every clinic's a little bit different. The clinics are largely influenced by, one, the personality of the clinical professor as well as sometimes just the subject matter. In my clinic, and we can discuss a little bit later, is a little bit different than most of the clinics around here. And that one we only run during the summer. It's important to me to recognize that the students have been working very hard throughout the year, the 1L year, even for those of us who enjoyed it or survived it is incredibly stressful and it's incredibly taxing. And it can be even sometimes it's full of disappointments that you didn't do as well as you wanted to, or sometimes it's just full of stress that you did okay, but you're looking back and you're wondering whether it was worth it. I'm a big believer that the clinic should offer an alternative experience about what is the law. Don't get me wrong, this is an appellate clinic or a post-conviction clinic, we read a lot of cases, but there are a lot of other aspects to it.

I'm a strong believer in what we call experiential learning, which means we learn through gaining all different types of experiences. So one of the core features of, say, CLASP is we do a lot of to use the vernacular perhaps regular school field trips. And so we do maybe about eight or nine of them over the course of an 11-week program. We visit many of the prisons in Wisconsin, and the Department of Corrections, let me say, has been very kind and giving us very thorough tours. So we visit Waupun maximum security prison. That tour normally lasts an hour and a half, two hours. This Friday, we're going to Oakhill Correctional facility, which is actually here in Dane County. That's a minimum security prison that's notable because the state has recently designated it the elder care perhaps is the best way facility. So persons who are incarcerated, who are serving, who have reached a certain age and are needing special... or have special needs related to those age or being transferred there.

It's also famous, some of the minimum security prisons around here. They have farms, I believe, not the one we're going to, but another one has a dairy. So it's another aspect. We visit a medium security prison. The students do a ride along with the police, the students visit the court. We took a tour of the Capitol in our first week, particularly with an emphasis on the Supreme Court, and it was a little bit embarrassing because we went during the same week, that was, I think, the last week of school. So my law students and I ended up getting added onto a tour of, I think it was like, 100 fifth graders, 100 fourth graders who asked all type of questions. Some of them were very good questions, but overwhelmingly focused on the art and the naked people in the art.

And it's the type of question that your law students are also asking. And it got a big laugh, but it also gave us an opportunity to understand how the public sees the court and what people are thinking about the court. And it's always interesting not only to hear the tour, but to hear the questions people are asking. What does the justice do and how does that all work and what's the difference between that and the U.S. Supreme Court, which are questions you'll hear from not only students but also parents on the tour.

Kris Turner:

I think that's great that you ended up on that tour with the fourth and fifth graders because it's good to always, for law students and faculty for that matter, know what questions are being asked of the system. I think just to hear, oh, that's not clear to the parents what the difference is between the state Supreme Court and Supreme Court of the United States. What an added bonus for your students in that way, whether they probably didn't get a nice treat in their lunch bag like this. I almost did, but that's okay. That happens.

Steven Wright:

Yeah. And so the field trip is just one component of it. Of course, we're a very traditional clinic in the sense that we have clients and we represent them, so they visit the clients and talk to them. Sometimes we are largely, what we call, a post-conviction clinic. So every single person that we represent has gone through that trial phase. They've either pled guilty or in the alternative they went to a jury trial and they were found guilty. And so there are lots of different post-convictions/appellate mechanisms for one to challenge their conviction and/or sentence. And so each of our students, I normally divide them up into teams depending upon the year and the heavy lifting that's required, each team will have

between two and four cases. This year, we have some particularly dense cases. We actually already just filed a brief, I think we're hoping to file another one this Friday.

We have a little bit of time, I will say special shout-outs to the courts who've been very kind in giving us extensions when students ask for them. And so there's part field trip, there's part client representation, the traditional legal research and writing. We're writing motions, we're talking to clients, we're trying to solve problems within the context of our criminal justice system using the tools that are available to us. And then of course, there's a crash course in criminal law. So once a week we get together and we do just an activity. So those activities are everything from activities helping students better understand how the appellate system actually works. I'm a big fan of games, I'm a big fan of arts and crafts. So I try to make them fun both to... Because I'm the type of person who will easily glaze over very boring stuff, but you can find ways to sort of make it fun and engaging.

So one of my more popular activities is I give the students the statutes that govern pretrial, what happens basically between your arrest and your trial. And I give the students magic markers and say, "Hey, diagram it and then explain it to someone." And I only give them the statute book, and it helps them both read statutes individually, but also sets up a... It helps them understand statutory schemes. And it also helps them understand that they are... The students overwhelmingly are very bright. All of them have college degrees. And for them to recognize that even reading the statutes is very, very difficult for them. I also have a lot of guest lectures. So you came in and offered advice on legal research as well as researching facts and people, career services. Thanks to Emily Kai comes in and talks about how to present these on your resume in preparation for OCI, we usually have a guest speaker, like a judge or somebody come in.

So I try to keep it pretty busy and active. Again, I want to emphasize the core of it. I would probably say 40%, 50% of the students' time is very much focused on writing that brief redrafting and those other things. But I also recognize that overwhelmingly the majority of our students won't go into criminal law, they won't go into appellate advocacy. So I want them to have overall just a very positive experience, a very memorable experience that both they'll look back on fondly because it was fun, but they also learned something a little bit about American criminal justice.

Kris Turner:

It sounds like a lot of the skills you're teaching are very transferable. On top of that, understanding how to read a very dry and dense statute to how to transfer this on your resume, how to do legal research, how to write a brief, what is it like to do a ride along. All those things are things that inform your experience as a lawyer.

Steven Wright:

Yeah. It's funny that you use the word transferable. I started this clinic coming from the Wisconsin Innocence Project, and that was a much larger project. As co-director, I think our biggest class at some point was 23, 24 with a summer class of 21. And then we'd take on additional students sometimes during the fall. And when I decided that I wanted to move over to CLASP or start CLASP, one

of the questions I asked the students is.. Okay, I was really worried that frankly nobody would want to do it. So I asked like, "How do I pitch this to students? What do I have to say in order to convince students that they wouldn't want to do it?" And overwhelmingly, the thing I heard back was you teach transferable skills.

And that was the phrase... that was the first time that I actually ever heard the phrase transferable skills. I was teaching some very fundamental things that students could not only explore, but if students thought they had weaknesses, they can get stronger or skills that they could gain that they didn't perhaps gain in their 1L experience because it wasn't part of the curriculum, like client management and things like that. And so transferable skills is very much in the early days was the name of the game for our pitch. We're going to help you do a bunch of things, but among those we're going to give you some transferable skills.

Kris Turner: That makes for a very compelling sales pitch to students, faculty, anybody to say, "Well, you're going to learn something, but then you could take this wherever you go."

Steven Wright: Exactly.

Kris Turner: So what are those professional goals of many of the students that work in your clinic?

Steven Wright: The name of the clinic is Constitutional Litigation, Appeals & Sentencing Project. A fair number of the clinics at the University of Wisconsin, overwhelmingly focused on state matters. There aren't that many that deal, particularly with federal matters obviously we have the immigration clinic, and Professor Barbato who does a wonderful job and Professor Stevenson has the Federal Appeals Clinic. One of the features of CLASP, one of the things that distinguishes us, I think is our cases come to us from partners, and those partners include the federal courts, the state courts. We've gotten cases or asked requests from the federal public defender to the state public defender. We even get some from prosecutors and we get some from other organizations in the community. We're also one of the few places, I think we almost end up the Seventh Circuit, has a backlog and needs a lot of help or needs more volunteers. I shouldn't say they need a lot of help, but they need more volunteers.

Seventh Circuit, you're doing just fine. I have cases before you right now. That wasn't a criticism. But so we get these phone calls and we're always happy to help. And so among the cases that we end up, we almost always have at least one federal appeal. So at the very least when you have any type of appeal among the skills that you're going to learn is, one, client management and client expectations. How to instill confidence in the client about yourself and about the team. You've got to recall that every single person we represent, and especially on direct appeal, those people have been disappointed with their prior counsel. I've never met someone in prison who said, "My lawyer did a great job." And so they're often very mistrustful of lawyers, they're often very mistrustful of the system, and you've got to go in there and say, "Hey, I'm a law professor," or if I

let the students lead the meeting, I'm always there. But, "We're law students, but we're here to help and we're qualified to help, and we can do these things for you."

And that's a skill in and of itself. So not only communication, but building that type of confidence is sometimes necessary to go forward. And then there are just fundamental, one of the skills that I think we sometimes take for granted is trial transcripts in particular can be hundreds if not thousands of pages. And I can remember my first appeal when I worked, when I clerked, the judges came in one day with a box and just put the box on my desk and said, "I need a memo in a week," or whatever. And it was one of those type of things of I didn't even know where to start. You literally have thousands of pieces of paper and you're afraid of all of them, and you want to read every single detail and you're marking them up and you're taking just getting a framework.

And so, one of the very things we do very early on is we learn what each piece of paper means, how it fits into system, what's the difference between an order and a motion and why you need to pay attention to both, but why you need to consider both in different ways. We learned a lot of the fundamentals of appellate procedure that way. Ordinarily, you have to raise an argument below before a court will consider it. We talk about missed opportunities by counsel and how big of a deal those are and what opportunities are Monday morning quarterback. If we were in that moment, could we have made that same decision/mistake versus any person would've known to do X. So we have a lot of those type of discussions about just how to analyze raw facts and why some facts need to appear in the record. And then we do that advanced legal research and writing stuff that our legal research and writing program as starts people on, and that's everything from thinking through.

I tell students... So the way I normally work is I work besides the students. So we get the box, we make copies of it, we digitize and put it online, and then I say, "Okay. This is how we're going to approach organizing it," but I'm reading the first 100 pages the same night. They're reading the next 100 pages. And so then we come together and talk. The general rule that I tell students is, "Does something just not feel right?" You're new, but teaching students to recognize where there's actually conflict in the record is a skill that has to be developed over time where there's actually tension how that tension manifested. So you can do some of the obvious things like teaching them where somebody objects or where a judge makes a ruling and obviously any paper order, but are there things in there that just made you feel nervous or made you feel particularly apprehensive?

I also tell them to read that in the context of, "If you were sitting there as a client and you saw these things going on, what would you be thinking?" And so those serve as the basis normally for at least helping the students come to identifying issues. Obviously, once again, and I'm sure this is something you teach a lot of, but once you've identified an issue, how do you actually turn it into words that the world or a search database will recognize. That I think, obviously, it's a skill you all teaching, you teach well, but that was something that for me just took a



lot of experience too knowing, oh, that's a legal phrase that represents that problem. And then-

Kris Turner: That's a very difficult area. Artificial intelligence is changing it, prompt engineering, and all these kinds of things. So it's still evolving, and that's a difficult concept for experienced researchers as well. Not an easy thing to lead.

Steven Wright: Yeah. So I hadn't thought about that, if I can ask you a question, is artificial intelligence good at those things? So if I write... put in a legal context, this lawyer just asked the wrong set of questions despite the fact his client told him or her to do acts, would one of the AIs know to transform that into one of three areas of the case law?

Kris Turner: I think that they are developing that direction. Right now, I think it's better maybe at the brainstorming stage like, "Okay. Here's I want to bounce ideas and concepts off of the AI. And from there you develop it into those three different state concepts of law." So it can get you from the language that you have in your head to the language that maybe would be a successful search. Here's the good trends, like, "Okay. I'm trying to get this into a search, so now I want to... what's this concept in this jurisdiction?" That's one thing we actually will tell students is, "What's the language that's used in the Eighth Circuit?"

Steven Wright: Yeah, exactly. Yeah,

Kris Turner: That's one thing that is pretty, it's getting very good at because it has all the data for that already. And it should understand adjectives and similar phrase, terms of phrases. Here's my significant caveat is it's not always right, and to just take it as gospel is not what you should do, especially right now. But that is something that all students across the board, all stripes of students and faculty and staff and librarians and everybody is going to have to grapple with coming up.

Steven Wright: Okay. And that can also be helpful. I'm just thinking in this context, as you, of course, probably know there are a lot of legal concepts are often the same from jurisdiction to jurisdiction. But say the Wisconsin court may call it one phrase, whereas the federal court calls it another. So the underlying rules and idea maybe, but one may choose the... so Wisconsin, we like this phrase, erroneous exercise of discretion. Everyone else in the world calls it abusive discretion, but erroneous exercise. I mean, there are more sophisticated examples, but if I wanted to be able to take the principles of abusive discretion and perhaps translate what's the Wisconsin version of that, AI might be able to help me?

Kris Turner: Yeah. Yes, I think it would. I think that'd be worth investigating. See, I have this concept that appears in this jurisdiction that you know of and say, "How is this treated in this other jurisdiction?" I think that is a very fundamental way that AI could be used to help you translate from one jurisdictional language to another. So I mean, it's going to get better is what I have to say for now, but I think it's to that point already.

Steven Wright:

Okay. No, that's a helpful teaching tip, and I'll figure out to... Yeah. We can go back to the clinic, but I'm also struck by the rules of evidence. I believe some jurisdictions, most famously New York, don't actually have a book of evidence. There's no Rule 40, whatever. But obviously hearsay is hearsay wherever. So if you wanted to figure out how to translate, maybe the case law constantly refers to it as Rule 80, whatever, and the hearsay exception. AI might be able to help you more easily translate those types of things. But yeah, that's part of what... I often tell students that a large part of the clinic is introducing them to skills that they might want to master down the line. And so the things that we're talking about right now, how to actually articulate a specific search or how to find the actual words to cognize a claim to change it from just this amorphous, my client was wrong to, there's actually a statute or a case or a constitutional principle at stake.

That's a skill of itself. And then once you actually have the right search terms or find the right cases or source of law or whatever you want to call it, then actually turning that into a persuasive brief. And so we have a... I go through many drafts with the students. I'm a big believer in drafts. And I also tell students that this is an opportunity to figure out how you best work. Some students need to talk through a brief, especially when I was younger at the DOJ and I was new to voting law, I would have to go into a deputies. I was the writer on the team, I was the pretrial on motion. But I would actually have to go to the boss and say, "Okay. How does this fit into everything? What is it that you want me to emphasize? Are there any rules? I had to learn about writing like a government lawyer?"

We don't hide the ball very often or if at all. And so sometimes just sitting in the boss's office and talking through and thinking through what points to emphasize or how to handle this, how to actually script something, put words on the page that conform to some overall principle or overall goal in the most persuasive way. Some students need to talk through it. Some students can just go away and go into the woods and come back a week or two later and they present you with something. And sometimes it's good and sometimes it's like, "Yeah, you should have come in earlier." But the idea is for them to learn that.

And so learning how you write, they also work in teams, our briefs. I almost always pick a classic three or four issue brief, three or four issue brief. Each of them has an issue. They have to exchange it with each other. They have to give feedback. I'm big into teaching how to give feedback in a productive way. The rules of this doesn't sound good, or I would say it this way, "Just for the sake of sounding it that way is never acceptable feedback, but is there a better way to put it so the language is more consistent with the case law or does this case really say that," or, "Is that a fair summary of it," or, "You need to flush out this section," or, "You're missing the importance of this fact." That type of feedback is often encouraged, and we talk about how to deliver that. And so yeah, a lot of the skills in terms of the actual transferable skills, they focus upon that client management, legal research, writing aspect of the clinic.

Kris Turner:

I think that the answer to this next question is buried in there and embedded already, but I want to pull it out some more.

Steven Wright: Sure.

Kris Turner: What are the most challenging aspects of the clinical work, both from your own perspective and that of your students?

Steven Wright: I'll be honest, we haven't actually talked about it. The most challenging part of this actually tends to be the emotional part of it for the students. There's no need for this to become a therapy podcast, but I was surprised, especially when I worked at the Innocence project, but it continues here. I will say this, one of the things I love about Wisconsin students is overwhelmingly, they're earnest and they are hardworking and they want to do good in the world. And oftentimes they meet a client, they tend to fall for the client, they want to do everything for the client, but the law doesn't, even rightly or wrongly, may not provide an avenue of relief. Likewise, especially since the murder of George Floyd, students are particularly cognizant of all types of flaws in the criminal justice system, but particularly those that relate to race.

We are visiting Waupun where the criminal complaint alleges people, or at least four people died in a pretty horrific way. And even when I teach, I teach the case law and I teach that there are often very good, well-intentioned reasons behind it. So things like you can only bring so many types of appeals. You can only raise certain types of issues on appeal and different jurisdictions have different rules. And yes, you and I agree that that is not great for this client and maybe it's not a great rule, but that is the rule. And normally, I actually tend sometimes to be... I think the students are a little bit surprised that I am a little bit of an institutionalist. I think that's the DOJ training in me. So I'm never going to say you're wrong. That's a bad rule. But I normally like, well, there are some well-reasoned justification for the rules even if we disagree with them.

So yeah, the hardest part I think for many of the students in the clinics, in both the Innocence project and class, is actually just that frustration about the limits of remedies and the heartbreaking nature of being thrown into a system that we all agree may have many virtues and many vices, but also has many flaws. And because we're the Remington Centre, we almost exclusively have clients who just can't afford other representation. So many policies that disproportionately affect poor folks and people of color, the students see it head on.

Kris Turner: So when students are working with or interacting with clients for the first time, what do you consider the most essential lessons to impart to them?

Steven Wright: It almost sounds cliché, but I think every clinician definitely in this building, but around the country will tell you just learning how to listen to your client. I'm often surprised how often clients... I've been doing this for... I've been a lawyer for 20 years. I'm often surprised by how often I enter a meeting and a client's concerns are just very different than what I thought the client was going to be. Sometimes you meet a client and they're like, "I actually don't want to get out of jail. What I'm more concerned about is I'm concerned about being able to get the drug and alcohol treatment while I'm in prison," or, "I'm concerned that I won't be able to see my kids when I get out."

We get a fair number of those. And so listening to what the actual client wants and also being honest, sometimes you have a conversation with the client and you're just like, "There's no chance we can do that," or, "Listen, we can try that. But we want to make perfectly clear to you the odds of that being successful. It's very, very small." But in that early meeting, it's definitely a focus on listening. Once again, I know it may be cliché, but I am a big believer, especially in those early meetings of that by Angelou, quote, "People don't remember what you said in those encounters. They remember how you made them feel." And so making sure the client feels at least heard is I think very, very important.

Kris Turner: Yeah. The fundamentals of communication and the give-and-take and the impression you leave behind is something that is hard to teach, but very important to in parts. And it seems like you do a very conscious job of doing that.

Steven Wright: I mean, I talk to the students a lot about this overall, that first impression throughout, whether it's your job interview or with a client or when you show up at court, or especially when you present yourself at a jury. I tell the students that I once sat on the grand jury for six weeks, and those jurors made up their mind about both witnesses and prosecutors before those people even opened their mouths. And so making sure the students understand that part of what the clinical experience is, it's building a professional identity. And especially if you're in a job where what other people think of you is pretty important, and that's 90% of legal jobs. The most notable exception probably is academia. But when those type of jobs where either you're required to recruit clients or to meet with clients or to persuade judges or persuade jurors, those first impressions matter.

We also discussed a lot about those things for the brief. The Seventh Circuit has that, I don't want to say, tongue-in-cheek because they're quite serious about it, but they have that style guide about topography, about how your brief should look and what font and what spacing and how to insert pictures and graphs and all those sort of things. But we give a lot of thought to just what the brief physically looks like because we know the judges have said that matters. We know the studies have said that judges that matters. So you can make a really good argument, but if the font's too small or the font's too big, or it's a weird font that just the judge is uncomfortable with or whatever, or your spacing is weird, those things matter.

I have a personal rule for writing, which is fix every single mistake no matter how small because there are others that you have missed. So those should be the ones that justify. But if you saw that one apostrophe shouldn't have been there on page six and it was still there, no, it does matter. So teaching students those type of appearance things can actually matter greatly.

Kris Turner: Yeah. If the judges say that in their style guides, they mean it and so do their clerks. And so paying careful attention is critical. I'm so glad you teach that. That's great to hear. But let's take a step back. What does it take to build and maintain an effective legal clinic?

Steven Wright: Well, one institutional support, let's be clear about that. I could not do all of this on our own. I should give a shout-out, in particular, Nick and Chelsea Gill who

are the administrative team here at the Remington Centre, they are instrumental in doing everything. Our students need security checks in order to get into the prisons. And so those two among other things help run the students through background checks. They also organize the cars that the students drive when we do the visits. I'm grateful for them. The way that I explain clinics to most non-lawyers is they're basically small law firms. And so you need the resources of a small law firm. So you obviously need Westlaw and Lexis, those type of research databases. You need text editors to be able to scan documents because almost everybody now uploads things online and almost everything else still requires an appendix or something like that.

So you need that fundamental infrastructure. Once again, our administrative staff is great for doing things like helping me screen clients. We get a lot more requests than we can actually handle. And so screening cases, particularly in a place like class where I would like a lot of it resolved in one semester, which differentiates us from many other clinics that we don't do as much fact-finding as perhaps some of the other places. Yeah, there's two aspects I guess in that question. There's one of the resources needed to run a law firm and then what are the resources you need to actually teach students. And I think probably the answer both comes down to institutional support, and people like Dan and Ursula, but also people like Nick and Chelsea.

Kris Turner: Yeah. It takes a village no matter what, when it comes to teaching our one of law firms.

Steven Wright: It really does.

Kris Turner: So here's a very fundamental question. I'd be remiss not to ask it though. Why is a clinical experience so important to a law student's education?

Steven Wright: Well, the legal answer is that the ABA says so, or at least the ABA, the people who accredit the law schools, required, I believe it was 2018 thereabout, that all law schools provide... excuse me, that all law students require students to take what, six credits of experiential learning credits. And that's basically real world experience, practicing law, and that's necessary to graduate. So every student has to do it. So the tongue-in-cheek answer is that... I always explain it like this. I'm the first lawyer in my family, but I actually come from a long line of doctors. My dad was a doctor, my grandfather was a doctor, my sister's a doctor, blah, blah, blah. I am no doubt a great disappointment, but I come from a long line of doctors. And I can tell you this, a lot of medical education is actually outside of the classroom, whether it's you want to consider it the fellowships or the residencies, but also your last maybe year, year and a half of actual medical school is actually going out doing the world.

And I think the benefits that the medical community has seen from doing that is very similar to the benefits that we get in the law. Let's be clear. Whether you're going to a doctor or a lawyer, you're not going there voluntarily, you're going there for a problem. You're either going there for a problem or to prevent a problem, whether it's a regular checkup or preventing a problem by going to a regular checkup or having a well done, or whether you're going because you need

emergency surgery or you're being sued or you've been arrested. And so teaching young and prospective lawyers, the actual craft, the art and slash craft of being a lawyer of how to talk to people or how to responding to clients, how to actually navigate the system in a real world outside of that academic framework, I actually think it's pretty key.

We're not lawyers in the abstract. We're not research scientists in the lab. We're actually out there serving people. And so, no matter how smart you may be at reading statutes or writing a brief, unless you can actually go there and convey to your client and actually help advise them through the system, you're actually pretty useless. And so, requiring lawyers to some degree to actually know how to navigate the system and how to work with clients, it may be less important than say a medical person who's actually dealing with the physical body. But it is an essential aspect of what we do.

Kris Turner:

Yeah. The hand in the dirt aspect of lawyering, you're out out there actually working with this and to understand that you're not up in some tower, ivory tower, so to speak. Thinking about it, so that's... Yeah. It's very important for law students to understand who will they be working with, and you carry your medical disappointment very well. I would never have known about that. Are you able to share any of the cases or clients that have been especially gratifying or at least eye-opening for you and your students?

Steven Wright:

I have. One of the things I will say about the clinic is, as I said, what differentiates our clinic from many of the other clinics is that the majority of the cases can normally get done in the summer. It's very rare to get done with anything in the law for 10, 12 weeks, but at the very least, they'll write the opening motion or the response to a motion or a brief. The other that perhaps differentiates CLASP is because we have so many rich opportunities, by and large, we're taking cases that are really interesting to me. And so, I take a fair number of cases that either are factually interesting or there's a legal wrinkle there where I would say at least half of our cases, probably more issues of first impression, sometimes of little use statutes.

And so, some of the examples of cases that we've done here, we took, let me think, in the past three or four years, some of our successes have included, there was an issue in first impression in the Seventh Circuit that basically dealt with whether the state can use as evidence at trial information obtained from a defendant during their pre-trial interview. So when you get arrested, the state does a pre-trial interview as part of your assessing bail, assessing your needs. And the Seventh Circuit had never resolved whether that information could actually be used at trial for any reason, impeachment, whatever. And we were able to get a favorable ruling on issue of first impression on that one, and we were hoping because it created a circuit split actually, that would go to the U.S. Supreme Court, but the Solicitor General decided not to appeal.

We've had a couple cases that dealt with the nuances of the sexual offender registering. There are many states, including Wisconsin statutes, that put people on the registry for offenses that have nothing to do with sexual action, like there's no sexual assault, no rape, nothing like that. Yet those people appear on those

registries. And so, we've had at least two cases where we were able to successfully make arguments about why adding someone to the registry and their specific cases. One was a fact-based, the other was a statute-based reason for them not to appear. We talked earlier about some of the challenges and the emotions that are associated with cases. We had a compassionate release case about two years ago. For your listeners who don't know, compassionate release are cases where there's an individual who's serving time in crime or serving time in prison obviously for a crime, but the doctor has given them a terminal diagnosis saying they don't have very long to live.

And so the question is whether the courts will grant them a mercy and allow them to die in a hospital at home with their family. Those cases again, come from us, from partners. The DOC emails us and says, "Hey, the DOC doctor says this person has a terminal brain tumor, has this disease, or that, they don't have much time to live." It's a court process. The judge obviously has to sign on any release. Can you help this person navigate the system? So there's all types of different cases almost guaranteed the facts are going to be interesting just because that's the type of person I am, but also I like for them to be not your regular error-correct, what we call, error-correcting cases where it's clear that the judges made a mistake. But I like cases where judges can reasonably disagree about how to interpret a statute, interpret a case, those type of things.

Kris Turner: I could say here for a very long time, listen to all these achievements. So congratulations on that night. I don't know if the listeners would want three hours of it, but you and I can talk off mic about the further achievements-

Steven Wright: Well, thank you.

Kris Turner: ... that you've gotten to the clinics. Congratulations. That's great to hear. What are your future goals for the clinic?

Steven Wright: I think one of the more interesting... I don't want to quite go as far as sake exciting, but one of the more interesting aspects of legal education right now is that obviously we're in an era of tremendous change in the legal landscape. Obviously, it's come from the top down, the makeup of the Supreme Court, but also it's coming from the bottom up. You'll see a lot of grassroots organizations, a lot of voters demanding changes in our immigration system and our criminal justice system, and many of the systems that class is actively involved with. And so part of me is just... One of the things that I love about clinical education is that every year you get new students, and every year you can see a gradual... the students reflect the gradual change in the culture. So I'm excited to continue to have great students who can help me better understand how those systems are changing while also at the same time we see these larger changes in society.

Kris Turner: And what do you most want your students in the class to take away from their time working with you in the clinic?

Steven Wright: Well, Steve Wright is awesome. That's the take for it. No, I mean, I have whole didactic or ideological classes. And I think I've enjoyed some success with having students from across the political spectrum in my clinics and people with

lots of different life experiences in my clinic. One of the examples of something that I teach here in Wisconsin is Bell work. We look at the academic literature and we look at some of the experiences and we look at how Bell disproportionately affects certain segments of society, particularly poor and people of color. And then at the same time, we talk about being a judge and being risk-adverse, and we talk about the Waukesha parade killings.

And more than anything, if anything, I hope my class, for lack of a better word, just better informs, if not, moderates people's positions saying, listen, there are no easy answers. Any solution will have to acknowledge realities that both advance and undercut your argument. And so, it might both in my classes, there are very few right or wrong answers ever given, but the wrong answers tend to be like, "I don't care," or, "That's tough for them." Just making sure the students understand most hard decisions often involved competing priorities or competing values, and we can't just disregard one set of those entirely, but we can't fairly say this one to me or to society is probably more important. And so, walking away with just understanding, hey, on the one hand, but on the other hand is really what I'm trying to instill in students.

Kris Turner: Learning nuance, a very difficult thing. And sounds like you're instilling that in the students. So-

Steven Wright: I'm trying.

Kris Turner: I have to bring up your novel, *The Coyotes of Carthage*, that we talked-

Steven Wright: Yes, thank you.

Kris Turner: ... about a few years ago. I read it for that. Critics and other readers enjoyed it just as much as I did. I need to know, are there more plans for fiction books in the pipeline?

Steven Wright: There are more plans for fiction books. I'm working on another novel. I have submitted a copy to my editor, and I'm waiting to hear back from some feedback. My guess is it'll probably be on the shelves late 2025, 2026. I'm expecting to make more changes. God, it's already July of 2024. Time flies. But yes, there is another book in the pipeline. There are probably actually another two or three books in the pipeline. I keep my fingers crossed, but I'm a slow writer as anybody who's ever worked with me on a brief. It's not that I'm not sitting down for hours doing it, but for some reason it takes me longer to complete a page than it does other people. I'm so grateful to people like you and to the small bookstores who were able to help us get word out during the pandemic. You'll recall that book came out the first week of the shutdown, and I thought for certain that would be my literary doom.

And it ended up being a blessing actually because there was a huge inspiration for my people like you to start doing more podcasts and using it as a means to build community of people in the law school, just so we know what else we were doing because we weren't having those type of same faculty meetings. The small



bookstores were interested in building community. And because my book came out during that period and it was also somewhat of a political book, it got a lot of attention. So again, I'm grateful to all of you, and yeah, I'm optimistic about the next book.

Kris Turner: I am too. It's very exciting for me to end a podcast on a very high note, and there's not much more we can achieve. I'm hearing there's one copy already to your editor and other books in the pipeline. I think we got your back. You're going to come back on the podcast for each one of these books to discuss and definitely you don't-

Steven Wright: I promise, I will-

Kris Turner: That's right.

Steven Wright: ... as long as you'll have me.

Kris Turner: That's right. I'll have you. I'm holding you to that promise. There's no question you're returning then.

We will link out to Professor Wright's clinic page, CLASP, but also out to his novel, *The Coyotes of Carthage*. That's already been released on our podcast page. Thank you very much for joining the podcast today, Professor Wright. It's always a pleasure and a privilege to have you or any of our amazing clinical staff on the podcast.

Steven Wright: Thank you. I had a great time.

Kris Turner: We've been discussing Professor Wright's CLASP Clinic at the UW Law School. You can also see a complete listing of Professor Wright's Scholarship in the University of Wisconsin Law School repository. Thank you for listening. Find links to all of our previous podcasts, including Professor Wright's previous discussion of his novel, *Coyotes of Carthage* at [wilawinaction.law.wisc.edu](http://wilawinaction.law.wisc.edu).

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