

Stetson Journal of Advocacy and the Law

The first online law review designed to be read online



1 Stetson J. Advoc. & L. 12 (2014)

Advocacy Spotlight: Justice Peggy Quince

Erik Johanson

Founding Editor

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I. Introduction

12. The *Stetson Journal of Advocacy and the Law* is not only the first online law review designed to be read online; it is also the first online law review dedicated to discussing emerging trends, techniques, and developments related to the specialism of advocacy. Stetson is, of course, well known for being consistently ranked as the nation's top law school for trial advocacy,² and the *Journal* certainly aims to build on those well-established institutional strengths.

13. Yet, just as Stetson offers excellence in other aspects of legal advocacy, the *Journal* too is keen to include contributions discussing all aspects of advocacy and the law, both oral and written. Crucially, moreover, we are keen to escape from the recent trend that has seen the readership of law reviews dwindle as they have become increasingly written by and for an ever-narrowing group of academics. Instead, we aim to provide a useful resource that reaches well beyond the academy to assist practitioners striving to represent their clients ever more effectively.

14. Many of our articles will, consequently, be written by experienced practitioners, passing on useful lessons they have learned and tips for future success. We have also established a Board of Advisers, with a membership including experienced judges and attorneys, to assist us with the selection and editing of articles.

II. Justice Peggy A. Quince

15. The first person whom we invited to join the Board was Florida Supreme Court Justice Peggy A. Quince.³ Justice Quince has a long association with Stetson University College

1 [Founding Editor](#), *Stetson Journal of Advocacy and the Law*. I would like to thank Dr. Tim Kaye for his helpful comments and suggestions on an earlier draft.

2 See e.g. US News & World Report, [Trial Advocacy Rankings 2013](#).

3 See [Justices of the Florida Supreme Court](#).

of Law, going back at least until 1999, when she was awarded an honorary doctor of laws degree. Indeed, her career on the bench began in the very judicial district in which Stetson is situated — for Justice Quince first became a judge in January 1994, when she was appointed to Florida’s Second District Court of Appeal, whose district encompasses the Tampa Bay area.

16. Justice Quince was elevated to the Florida Supreme Court in 1999, becoming only the third woman — and the very first female African-American — to sit as a Justice on the Supreme Court of Florida. From July 1, 2008 until June 30, 2010, she was Florida’s Chief Justice, becoming the first African-American woman to head any of the branches of Florida government.

17. In anticipation of the *Journal’s* inaugural edition, our founding student editors, Erik Johanson and Jamie Combee, traveled to Tallahassee, Florida and met with Justice Quince in her chambers both to discuss her motivation for entering the practice of law and to listen to her advice for advocacy practitioners.

18. Justice Quince was a gracious host, as she told us how she had initially planned to become a doctor, even obtaining a Bachelor of Science degree in zoology. Her intentions changed, however, as — learning lessons from the Civil Rights Movement — she realized that the law could empower her to combat societal injustice.

19. This new motivation crystallized while an undergraduate at Howard University. She was a senior at the time of the Kent State shootings on May 4, 1970, in which members of the Ohio National Guard shot dead four unarmed students at Kent State University, and wounded nine others, leaving one permanently paralyzed.⁴ As Justice Quince put it, that infamous event in American History “led me to begin thinking about the law, and how the law was applicable to the social issues of that era.”⁵

20. Accordingly, Justice Quince converted her passion for medicine into one for the rule of law, and enrolled at the Catholic University of America, Columbus School of Law in Washington, DC. While studying at Catholic, Justice Quince worked for neighborhood legal aid organizations and dedicated herself to a wide range of legal issues ranging from bankruptcy to rent control. After law school, Justice Quince went to work for the rent control office in Washington, D.C. before embarking on a career that has spanned private practice (in Norfolk, Virginia and then Bradenton, Florida), the Florida Attorney General’s Office, the Second District Court of Appeal, and the Florida Supreme Court.

III. Truthfulness & Candor

21. Throughout her career, Justice Quince has emphasized the values of candor, truthfulness, and professionalism. Perhaps this is partly a subliminal response to those terrible

4 See [Kent State shootings](#).

5 See Rick Hampson, *1970 Kent State shootings are an enduring history lesson*, [USA Today](#), May 4, 2010.

events at Kent State. Despite the investigation and report of the President's Commission on Campus Unrest⁶ — an inquiry established by President Nixon to investigate the shootings at both Kent State and Jackson State, where two black students were shot dead by police ten days later⁷ — the reason why the Guard began shooting that day at Kent State remains unclear.⁸ Obviously, at least some of those involved have been less than candid about exactly what happened.

22. By contrast, after reminding us that she chose to pursue a legal career in order to help effect societal change following the civil rights movement, Justice Quince emphasized repeatedly that candor and truthfulness are the foundations of legal practice:

Advocacy means being prepared to represent the best interests of your client, but always within the bounds of being truthful and professional.

23. We asked Justice Quince whether that changes once someone becomes a judge because they then no longer have a client, or did she consider her “client” to be the state of Florida? No, these principles do not change, she told us. From the perspective of a Justice of the Supreme Court of Florida, her clients “are *the people* of the state of Florida.”

24. Some advocacy teachers advise that advocates should take every opportunity to “spin” both the facts of the case, and the legal analysis, so as to align as closely as possible with the interests of the client. Justice Quince takes the opposite view. Not only is such a lack of candor unprofessional, it is actually likely to be much less effective, since the court will not feel able to rely on the advocate if the question is close.

25. Indeed, Justice Quince noted that advocates who provide the court with a complete and objective recitation of the facts often gain credibility with the court. Justice Quince stressed that “courts always think about whether they can rely on what [the advocate] has just said,” and that the most effective advocates “deal with undesirable facts up front.” Additionally, Justice Quince reminded us that, in close cases, advocates should view their arguments from the court’s perspective, and “ask themselves how their position supports the best interests of the state.”

IV. Making a Good Record

26. One of the mistakes that Justice Quince sometimes sees advocates making is that they approach appellate advocacy in much the same way as trial advocacy. Justice Quince stressed, by contrast, that the standard of review applied by an appellate court almost always precludes it from correcting every error that might have been made at trial.

6 *The Report of the President's Commission on Campus Unrest.*

7 *Jackson State May 1970.*

8 See John Mangels, *New analysis of 40-year-old recording of Kent State shootings reveals that Ohio Guard was given an order to prepare to fire*, Cleveland.com, May 9, 2010.

27. Indeed, allegedly inappropriate findings of facts can rarely be corrected at all. Justice Quince pointed out that mistakes and oversights during trial often can only be overcome by a showing of egregious or fundamental error. While it is not impossible for advocates to make such a showing, Justice Quince told us that the requisite circumstances occur fairly infrequently.

28. Justice Quince therefore emphasized that, instead of appellate advocacy following trial advocacy, it is trial attorneys who need constantly to bear in mind the constraints on appellate advocacy so as to provide the best possible basis for making an appeal (if that proves necessary). In particular, attorneys:

need to always be sure that they are making a good record, and need to articulate, with specificity, the grounds for their objections.

29. After all, if something is not in the record, it cannot be reviewed. And objections that were not clearly articulated do not preserve that issue for subsequent review.

V. Law Reviews and the Courts

30. Finally, since the occasion for this interview was the establishing of the *Stetson Journal of Advocacy and the Law*, we asked Justice Quince to discuss the pros and cons of academic legal publications. Justice Quince told us that:

Rather than being conclusion oriented, the best articles provide a true and objective dialogue about a particular issue.

31. While authors are often motivated to write in order to effect change, Justice Quince emphasized that the true value of an academic legal publication — whether to a court, or more generally — is its ability to function as an educational resource.

32. We found this insight particularly instructive. Accordingly, while we include one conclusion oriented article — an important call for the recognition of certain forms of prosecutorial misconduct — the *Journal's* first edition includes an article on torts that provides a timely reminder of the importance not only of questioning others but also ourselves; an essay on the behavioral psychology of appellate persuasion that provides a series of suggestions for improving the practice of appellate advocacy; and an article that provides helpful guidance on negotiating the federal rules of evidence (particularly on hearsay) in the context of bankruptcy law.

33. We have selected these articles not only because they provide creative solutions to contemporary legal issues, but also to serve as educational resources for practicing attorneys who are striving to represent their clients professionally with truthfulness and candor.