

LAW AND LITERATURE 101

Criminal defense attorney William Terpening looks to books for insight

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When newspaper headlines and evening news anchors brand William R. Terpening's clients as villains or greedy business executives, he has to tell the other side of the story to jurors. "Part of my job is to humanize these folks and make sure that the jury gets a deeper and kind of more comprehensive picture of who they really are and what led to the decisions that they made," he says. In doing so, he turns to what he calls an increasingly rare attorney development resource: literature.

Terpening, partner at Charlotte's Anderson Terpening, is part of a law and literature movement, which he says offers a perspective not always found in law school. It's not so much a group of middle-aged lawyers camping out in vans reading Kafka, he says with a laugh, but rather a discipline that's now gaining popularity on campuses. Exploring literature offers attorneys a way to develop both the ability to better understand the legal system and the skills necessary to help juries care more deeply about cases, Terpening says. The movement, which began about 30 years ago, was established to fill a void that began in the 1940s and 1950s when law schools began neglecting areas like rhetoric, philosophy and the study of ancient ethics, topics that had previously played a significant role in the legal curriculum.

As an adjunct professor at Charlotte School of Law, Terpening shares his literary knowledge with students in the school's first "Law and Humanities" course. It's a natural role for Terpening, who attended law school at Duke University where, while concurrently earning his master's in English, he first explored the idea of using literature to enhance his legal skills. "While the rigor of law school can be helpful in terms of logical thinking and problem solving and doing what lawyers have to do," Terpening says, "that way of thinking also conditions people out of other important ways they need to think as well—including the ability to see things from the perspective of other people; the ability to tolerate gray area."

Terpening knows what it's like to face a jury on behalf of a client whose actions are not easily understood. In his 10 years as a criminal defense attorney, Terpening has represented accused drug traffickers and professionals such as physicians, accountants and lawyers accused of embezzlement, fraud and malpractice, among other allegations.

Terpening pursued law for the same reasons he was interested in literature: the chance to have direct impact on people's lives by figuring out how people work, and how they handle certain stressors and situations. He found complex criminal and civil litigation rewarding because it offers a challenge. "What attracted me to this area of practice is the opportunity to make sure that the process is fair and that my clients feel like they got a

fair shake,” he says. “That’s a big part of why I do what I do. There’s something very frightening to me about a government that in a federal system has as much power as it does—unless there are people doing what I do who check that power and make sure that they’re exercising it the way that they’re allowed to.”

In 2008, Terpening began representing Lance Poulsen, the former CEO of National Century Financial Enterprises—once the nation’s largest health care securitization company—who was tried on securities fraud charges in Ohio. He considers *United States v. Poulsen* his most challenging case. “One of the overarching lessons was the whole notion [that] a jury being a jury of your peers is not really the case if you’re a white-collar criminal defendant,” Terpening says. After a monthlong trial, Poulsen was sentenced to 30 years in prison by a federal judge. (The decision was appealed, and when *Super Lawyers* went to print, Terpening was waiting for an opinion from the 6th Circuit, hoping it would remand the case for a new trial.)

In 2007, Terpening argued, along with firm partner Peter Anderson, in federal court and successfully obtained an acquittal for a prominent Wilmington tax attorney, Rick Graves. Since then, he has litigated more than a dozen appeals before the Federal Court of Appeals for the 4th Circuit and federal circuit courts nationwide.

For Terpening, trials are similar to dramas: A lawyer tells a story, creates tension to retain the jury’s interest, develops characters and worries about plot. When he speaks to juries, Terpening finds inspiration in the writings of Faulkner, Thoreau, Hemingway and Kafka, and other authors, to convey to a jury how his clients could have reached their boiling points or found themselves in certain predicaments. Terpening says such authors have explored the deeper psychological and emotional levels of the human condition and can demonstrate how certain situations can present themselves when unmediated, insights which help Terpening better translate the situation for jurors.

While it’s only been in recent years that law and literature courses have been offered at law schools across the country, Terpening finds that many attorneys engage in the movement’s practices without even realizing it. “I think most lawyers ... have interest in the arts and the humanities anyway,” he says. “Whether they do it consciously or not, they think about what they’re reading in their free time ... as it would apply to law a little bit and take lessons [that] they can apply to their practice of law.”