

Thank you Dean Kramer for that kind introduction. As you all know, this is Dean Kramer's final graduation. He has left an indelible mark on this school and on all of us. We are so honored to be his send-off class.

Good morning faculty, staff, family, and friends. And hello Stanford Law School class of 2012!

Graduates: You are an incredible group of individuals. Some of you entered straight out of undergraduate programs, having determined from age five to pursue a legal career. Others of you already had earned doctorate degrees, were lawyers in foreign countries, taught in underserved schools, served in our military and had whole careers before coming to Stanford. I am humbled to be the voice of so many individuals today.

So, Congratulations, today is our day, and I will do my best not to embarrass you in front of your families....

Human beings are molded by people. This graduating class is no different. You – you professors, you administrators, you mentors, you mothers, fathers, grandparents, siblings, partners, children, and great friends – you have quite literally made us into the people you see today. On behalf of my fellow students I want to thank you for your endless support of our wild ambitions, of our crazy dreams, of us.

We are molded by people but we are also molded by experience. And when I think back on my time at Stanford, there is one experience that stands out.

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I am sitting on a bench in Oakland, waiting for a bus, holding my backpack and my Criminal Procedure textbook, and tears are streaming down my cheeks. I'm gulping for air, my body convulsing. I've given up trying to brush the tears away. They're coming too fast.

Slowly I realize that there's a large group of people also waiting for the bus, but none of them are sitting on the bench with me. Instead they're standing right behind the bench. I recognize then that I must appear deranged, but I couldn't care less.

*This is what it feels like*, I think to myself. *This is what it feels like to lose*. The tears are hot and my face is slick.

Then a woman comes and sits down beside me. She is carrying a little dog in a dog carrier, which she places on the ground at our feet. She is wearing many layers of soiled clothing, so many layers that her shoulders seem to reach to her ear lobes. She has several more bags, two jingling with cans, and she puts those underneath the bench.

“You a lawyer?” she asks. I turn to her, stunned. Then I remember the thousand-page volume in my lap marked with the words: Criminal Procedure. “Oh, uh, not yet,” I respond in between sobs. “Still in school.”

“Well, I need a lawyer,” she says. She appears unfazed by my red face and wet cheeks. So unfazed, that she seems to think I’m actually competent to give her legal advice.

She tells me her troubles. Her mother was very sick with cancer, and she died several years ago. She believes the people at the hospital did not give her mother the care she needed and she would like to file a lawsuit against them. Her mother had a life insurance policy worth a few thousand dollars, but neither she nor her sister has been able to collect. Now she’s living on the streets.

“I’m sorry,” I tell her. “That’s awful. But I just lost my first case, so I don’t think you want me helping you.” A few more tears slide down my cheeks.

“Oh?” she asks, “what happened?” And for some reason, some reason that I can only explain as temporary insanity, I overshare.

I tell her how my partner and I have been working on a case through the clinic at my law school for over a year, a case of a man who was convicted of being a lookout for the sale of \$20 worth of drugs to an undercover cop. How my client was convicted on the basis of the police officer’s testimony that my client turned his head left and right. How he was sentenced under the Three Strikes law to a term of twenty-five years to the rest of his life. I tell her how my client had turned to drugs to cope with an abusive childhood. But that despite all this he had an entirely nonviolent record. Finally I tell her that this morning I woke up to the news that the court denied our petition to have him resentenced to a lower term. And how I have no idea how I’m going to tell this to my client, his fiancée, and his son. I take a breath.

“You’ve got to appeal!” she says. “You’re all he’s got. Don’t give up on him. You’re all he’s got. You’ve got to appeal!” Her intensity surprises me. The bus arrives, and I stand up to board.

“I’m going to appeal,” I promise her. “Don’t worry, I’m going to appeal.”

“Good,” she says. “Good. Good. Something told me to sit down beside you,” she says. “And now I know what it was. You’ve got to appeal.”

Then she asks for my business card. I tell her I don’t have a business card yet, really, I wasn’t kidding, I’m not a lawyer, and I get on the bus.

This experience taught me two lessons that I'd like to share with you, my fellow graduates of the 2012 class of Stanford Law School.

**1) Being a lawyer is like being a doctor: everyone is going to want our advice.**

I've never been a doctor, but I have a friend who is a doctor and whenever people find out that she's a doctor, they start rolling up their pant-legs to get her opinion on a weird mole. The next thing she knows they're reciting their latest blood pressure results. Even I've been guilty of sending her camera phone pictures of worrisome bug bites.

Like doctors, we too hold the keys to a mysterious kingdom. Ours is a kingdom of ancient Latin terminology, of writs, ceremony, and tailored suits. I know of no kingdom more forbidding nor more powerful. Our job is to act as bridges and to communicate across fortified walls. To do this, we need to understand the languages both of power and of the disempowered.

Because we are key-holders, people will open up to us. They will roll up their pant-legs, tell us their stories, and if we're good lawyers, they'll tell us their secrets. Sometimes their openness will bring us joy, sometimes sorrow, but always it is an honor.

After today, we can no longer cling to the safety blanket of still being students. We need to start printing up business cards, and distribute copies of those keys.

**Lesson number 2: You've got to appeal.**

When I found out we lost our case, I had to rethink everything I thought I knew about my worth as a lawyer. In the wise words of the Bobby Fuller Four, "I fought the law and the law won." The law won and all I got was guilt and self-doubt. I had a hard time concentrating on anything except the thought of my client, alone in his cell in the California desert, staring down a life sentence, and thinking that I had let him down. I couldn't stop thinking of his mother, of his fiancée, and most of all I couldn't stop thinking of his son.

The first day was terrible. The second day was terrible. I spent a lot of time thinking about this parable my mother told me, about a village where word gets out that the sky is falling, and all the village animals freak out and start running around yelling "The sky is falling! The sky is falling!" Except for this one little crow, this one little crow who lies down on his back in the middle of the square and sticks his legs straight up. An elephant comes over and asks, "Crow, what are you doing with your legs in the air, didn't you hear the sky is falling?" And the crow responds, "One does what one can." And he stuck his legs up even straighter.

Usually I really like that parable and take the crow's words as my motto. "One does what one can." But right after I lost that case I was thinking that the crow was a naïve moron who was never going to amount to anything.

The third day was . . . equally terrible. But the fourth day, the fourth day was better. By the fourth day I was working on my appeal. I felt a renewed sense of purpose, and a healthy indignation at the court.

And I began to realize that I needed another measure of professional success, one that doesn't depend on winning and losing. Of course we all want the best results for our clients. This is true whether the decision affects our clients' liberty or their financial security. But we also deserve to feel happy and fulfilled by our work. We won't always win, but we can always treat our clients with dignity and respect. Even when we lose, we can appeal. We can make it known that we don't agree with the result. We can assure our clients that WE still believe in them, and that we're willing to fight for them – even when the legal victory eludes us. After all, “One does what one can.”

So, class of 2012, this is my hope for you. That you find something beyond the winning and losing-ness of the law to sustain you. In other words, that you find your holding.

I once met a former lawyer who told me that he didn't remember much of anything from law school, but he's glad he went, because it taught him how to read a case and find its holding.

For those non-lawyer family members and loved ones in the audience, the holding is the most important part of the case. It's what the case stands for. All future law builds off the holding; the rest of the decision is simply very eloquent, minimally useful, fluff.

If we learned nothing else in law school, we learned how to cut to the heart of a case and unearth its holding. So, Stanford law, find your own holding... and hold on.

Thank you, and congratulations!!