

The Circuiteer

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News from the South Eastern Circuit

Issue 39 | Autumn 2014

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Tetteh Turkson and Emily Verity

The most outstanding course... is the week-long advanced advocacy course held every year at Keble College, Oxford...

Lord Walker

House of Lords, 10 July 2014



Haddon-Cave J, Timothy Dutton QC, HHJ Bartle QC & HHJ Goose QC

FLORIDA CRIME: FACING THE MUSIC

BY FALLON ALEXIS



In August 2014, Jeremy Benson QC (18 Red Lion) Fallon Alexis (QEB Hollis Whiteman), Tom Hoskins (9-12 Bell Yard), James Jackson (9-12 Bell Yard) and Greg Unwin (187 Fleet Street), were chosen by the South Eastern Circuit to represent the UK Bar at the annual Gerald T Bennett Prosecutor/Public Defender Trial Training Program. Founded in 1977, the course provides intensive training in the development of trial advocacy for around 80 practitioners, from all over the State of Florida. The Florida Bar Criminal Law Section in conjunction with the University of Florida Fredric G. Levin College of Law, based in Gainesville, Florida, runs the course.

One of the unique features of the annual course for the American attendees (as set out in the course material provided to participants in advance) is *"its emphasis on joint training of prosecuting and defending lawyers, a feature which plays homage to the British system of Barristers"*.

We arrived on a Sunday afternoon to meet our cohort. A mixture of approximately 80 State Attorneys and Public Defenders from across the State of Florida, all with differing levels of experience, from those who had just qualified to those who had been conducting their own trials for several years. We were all made to feel extremely welcome. Participants and tutors alike were keen to learn more about our criminal justice system. For example, they were fascinated to hear that we could be given the papers for a trial the night before and would turn up to court the following day fully prepared and ready to go.

Over the course of the week an experienced legal panel of Judges, senior practitioners and advocacy trainers critiqued each piece of trial advocacy, including an insightful *voir dire* on jury selection. During this process the Attorneys would examine potential jurors and ascertain any latent or concealed prejudices. Only those jurors who demonstrated beyond a reasonable doubt that they could be fair and impartial, would remain on the jury.

Our advocacy was also digitally recorded on a USB stick and practitioners were then



provided with additional individualised feedback on each piece of advocacy in a separate video review session with another tutor.

The course provided participants an opportunity to practice real skills against real opponents and an opportunity to learn from experienced lawyers, Judges and professionals from around Florida, who provided helpful and constructive feedback on each piece of trial advocacy.

Each County across Florida was invited by the Florida Bar to send a representative(s) on the course. For most Floridians we learnt that it was the first time that they had received any post qualification advocacy training. In addition to the advocacy training, the course included a seminar on "professionalism and ethics" and a very interesting lecture on fingerprint evidence. During the seminar, it became apparent that a possible effect of having separate training for State Attorneys and Public Defenders has resulted in obvious differences in ethical views taken by State Attorneys on the one hand and Public Defenders on the other when it came to issues such as disclosure, including, for example, differing views as to whether or not the State Attorney should inform the Public Defender at the start of a trial, when pleas are being negotiated, that their star witness has died.

We had lots of opportunities to learn about the US system. At a junior level, the average State Attorney has a typical caseload of several hundred cases at any given time. They usually conduct trials in the same courthouse in front of the same judge and against the same Public Defender, even prosecuting the same type of crime over and over again. In some parts of Florida they work in pairs, with both Attorneys at a

similar level in terms of their experience (as opposed to a silk and a junior for example), which allows the pair to bounce ideas off one another prior to and during the trial and to then chose between themselves which pieces of advocacy they would each like to do within the trial process.

We were all fascinated by one junior State Attorney who was commended by our US tutors for her closing speech that commenced with her playing one of Al Green's songs with the headline, *"This case is about facing the music"*! Us Brits trying to physically move around the courtroom during a piece of advocacy was hard enough to have a go at, so we will not be asking for a stereo to be made available during our next jury trial closing speeches!

The Americans were taught that the focus is on the advocate. So for example, they were told to stand out of sight of the jury when examining a witness in chief, so as to ensure the jury focused on the answers given by the witnesses as opposed to the questions from counsel and to stand directly in front of the jury, when cross-examining, to ensure their questions were the focus of the jurors.

The Floridians were fantastic hosts. We left wishing we could spend longer with our newfound friends before we set off to commence our return journeys across the pond.

The course is run annually and junior members of the Bar who have completed pupillage are encouraged to apply in future years.

Fallon Alexis is a barrister at QEB Hollis Whiteman