

# TRIBUTE: TRIBUTE TO PROFESSOR ROBERT BERKLEY HARPER: PROFESSOR ROBERT BERKLEY HARPER, TEACHER, MENTOR AND FRIEND

Summer, 2004

## Reporter

65 U. Pitt. L. Rev. 709 \*

**Length:** 2008 words

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## Text

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When I was asked by Dean Edward Sell <sup>1</sup> to write a tribute to "RB", as I affectionately refer to Professor *Harper*, I was at once honored and humbled. Honored because I would have an opportunity to talk about and pay tribute to someone who had a significantly positive impact on my life. Humbled because of all of the many students Bob could have chosen to write this piece, he selected me.

So where do you begin to tell the story about someone like *Harper*? Well, let's start with the facts.

Born to a large family in Pittsburgh's Hill District, Bob *Harper* was one of ten children. While attending Fifth Avenue High School, Bob was advised by a counselor to forget about college and go to trade school to become a printer, the usual advice to exceptional black students in the 1950s. His parents, neither of whom had completed high school, were also reluctant about his attending college because there were limited opportunities for black people, <sup>2</sup> even with a college degree.

With no scholarships or even loans available for lower income households, and with parents who had limited means, Bob worked at the United States Post Office while attending the College of Arts and Sciences at Pitt, majoring in math and education and graduating in 1961. Upon graduation, he enlisted in the U.S. Army, was commissioned a second lieutenant, and served for almost four years, including a tour of duty in Korea.

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<sup>1</sup> For the record, I know that the late W. Edward Sell most recently served as the Distinguished Service Professor of Law Emeritus and Dean Emeritus, and after 50 years holds the record for the longest period of teaching at the University of Pittsburgh Law School. However, I graduated in 1978 and will always remember his numerous contributions to the School, including his vision of a new facility, which was realized when we moved into the Barco Law Building. For those of us who remember the cramped quarters in the Cathedral of Learning, he will always be Dean Sell.

<sup>2</sup> Between 1949 and 1964, the unemployment rate of Blacks was 114% higher than for whites. John Hope Franklin & Alfred A. Moss, Jr., *From Slavery To Freedom, A History of African Americans* 545 (8th ed., McGraw-Hill 2000).

## [\*710]

After leaving the Army, Bob began what would be many "firsts" for a black man, when he was hired by the Pittsburgh Board of Education and taught math at Liberty School. He was the first black faculty member at the school. In 1968, "RB" was among 9 other African-American students who were admitted to the University of Pittsburgh School of Law; he and three of those students graduated in 1971.

Upon graduation, Bob was hired by the City of Pittsburgh, Department of Public Safety as the Chief Legal Advisor to the Police Department. As the first black man to hold that position, he helped give white police officers a different perspective, while ensuring that the rights of arrestees were upheld.

Professor Harper's Law School career began in 1972, as Assistant Dean, Dean of Students. In that capacity, he spearheaded a concerted effort to recruit more African-Americans students.<sup>3</sup>

In 1976, Bob moved from administration to scholarship as an Assistant Professor of Law, the first African-American faculty member at the Law School. He earned tenure six years later in 1982 and a full Professorship in 1986. "RB's" teaching areas included Insurance and Education Law. But his real passions are Evidence, Scientific Evidence and Criminal Law. In total he has taught thousands of students, in more than 28 years.

His publications include a major treatise on Pennsylvania Evidence,<sup>4</sup> a definitive piece on searches and seizures during arrests in Pennsylvania,<sup>6</sup> and other scholarly works.

Bob has served on innumerable University and Faculty Committees. In 2002, the University of Pittsburgh Law Alumni honored him with the Distinguished Alumni Award. "RB" is very committed to his community, as demonstrated by his well over 20 years on the board of Neighborhood Legal Services and his service on committees of the Allegheny and Pennsylvania Bar Associations.

Having traveled to well more than 20 countries, collecting African masks along the way and staying abreast of world as well as community issues, he is as my wife<sup>7</sup> has described him "the perfect dinner guest," a person who can fit in with any group.

## [\*711]

So those are the facts about Harper's life-but wait! There is really more, much more.

I feel compelled to offer observations about three aspects of my relationship with "RB." It should be noted that there are more than just a few of us who know him as a teacher, a mentor and a friend.

The Teacher When RB first started teaching at the law school, it is fair to say that he was not overwhelmingly accepted. We all know that law professors are a special breed, with quirks and propensities that form the basis of good-natured jokes, usually traded over beers or during study group sessions. Now Bob is not particularly quirky, but he would often end his classes with a Socratic-like question, in the finest tradition of legal education. There were certainly other professors who ended their classes similarly.<sup>8</sup> However, with "RB," some of the students used very derisive language, intended not to tease but to humiliate. When Harper, like almost all faculty, hired a research

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<sup>3</sup> In fact, I was the product of that effort, enrolling in 1975 and graduating in 1978.

<sup>4</sup> Robert Berkley Harper, Handbook of Pennsylvania Evidence (Aspen Law & Bus. 2001).

<sup>6</sup> See, e.g., Robert B. Harper, Affirmative Action Revisited in 1984, 1 Harv. BlackLetter L.J. 5 (Spring 1984).

<sup>7</sup> Lynn Fisher Hill, Esquire, Class of 1988.

<sup>8</sup> Professor Richard Seeburger was so famous for this tactic that he was nicknamed "The Riddler."

assistant to help him while he was writing his tenure piece, the rumor-mill at the Law School was that the student, not "RB," was writing the article, a totally baseless charge.<sup>9</sup>

Through all the digs and all the slights, he never lost his temper and never strayed from his goal of coming to every class over prepared and letting his scholarly writing demonstrate his commitment to excellence. From watching him, I learned lessons that went far beyond evidence or criminal law. He taught me the true meaning of "grace under fire." I also learned to ignore the background noise and the clutter that mean spirited people throw in your way and stay focused on the task at hand. And of course, substantively I learned practical, legal strategies that had application in the real world of practicing law. For example, Harper taught me that there is usually a way to get character evidence admitted, despite the limitations.<sup>10</sup>

My Mentor Harper has been and continues to be a wise and faithful counselor to many of us. From advising a young colleague on writing an article to guiding a young lawyer on starting a solo practice, Professor Harper has been dispensing wisdom for many years. The advice has not always been welcomed or pleasant, but it has always been well intended. Those who know [\*712] him know that there are many stories about his very direct approach to offering constructive feedback.

There is probably no finer example of this than the advice given to Rick Gilchrist, a classmate of mine. In the first half of the first year, Rick was known to party hard (probably harder than necessary) to the detriment of his academic achievement. None of this had escaped the attention of Professor Harper, who encountered Rick in the Black Law Student Association Office one evening. The conversation was short, pointed and meaningful. "Mr. Gilchrist," Professor Harper said, "Why don't you just leave now since it is obvious that you are going to flunk out!"

Well, for Rick, that was the wakeup call. He refocused on school, graduated and enjoyed a successful career before succumbing to liver disease. Before he died, Rick told everyone who would listen how appreciative he was for Harper's advice. Rick was emotionally moved that someone had taken the time to care and the fact that his life was ending made it even more important to him. Just before he died, Rick had the opportunity to thank Professor Harper personally.

Whether it was advice to a colleague on the subject of their first article,<sup>12</sup> or on deciding whether to leave the practice of law,<sup>13</sup> Professor Harper has always been faithful and wise, and in his own unique way, very direct.

My Friend One of Professor Harper's favorite expressions, one he has probably used in every Criminal Law class, goes something like this: "If you are worried about getting killed or stabbed, don't worry about strangers, worry about your friends! It's your friends that will kill you!"

Of course, true friends will stand by you when you are alone; support you when you are weak, help when you are needy; listen when you need to talk; give you a shoulder when you need to cry; and give you a hug when you are hurting. And friends don't just buy you birthday cards; they write notes that are meaningful and poetic. "RB" is that kind of friend.

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<sup>9</sup> Professor Harper's articles that were sent out for review for tenure were Robert Berkley Harper, Has the Pennsylvania Superior Court Misread Terry & Adams?, 20 Duq. L. Rev. 585 (1982) and Robert Berkley Harper, Accountability of Law Enforcement Officers in the Use of Deadly Force, [26 Howard L.J. 119 \(1983\)](#).

<sup>10</sup> In my Evidence class, I learned that character evidence, though the courts limit its admissibility, can be admissible in a variety of situations because "[e]vidence of the general character of a party or witness almost always has some probative value." Harper, supra note 4, at 108-09.

<sup>12</sup> Michael Benjamin, Esquire considers Harper a mentor and a person who "helped me recognize that I could do it on my own!" Michael graduated in 1977 and enjoys a successful plaintiff's practice in Philadelphia, Pennsylvania.

<sup>13</sup> Personally, I sought Bob's advice when moving from Pittsburgh to take a job with McDonnell Douglas in St. Louis, Missouri.

Acts of friendship are communicated in everyday life when people are going through divorces, when a family member dies, at weddings and [\*713] graduations and during serious illnesses. Bob Harper has been to all of those occasions for his friends; sometimes carrying us, sometimes walking at our sides; sometimes providing guidance and support; and sometimes just being there when we needed him.

Professor Sandra Jordan credits "Rob" (as she calls him) for guiding every step of her career moves and decisions; from recommending she accept a job as a federal prosecutor to coaxing her back to the Law School to teach. Sandy went on to become the first black female tenured professor. Commenting on picking up one of his courses next year, Sandy said, "I am proud to say that I will teach Scientific Evidence next year. My dear friend has mastered this complex subject and I am committed to maintaining the standard of excellence that he began with this course."

So Professor Harper, "Rob," "RB," teacher, mentor and friend, we thank you for your contributions to the University, the Law School, your community and our profession. We thank you for your teaching and scholarship and for showing us how not to let the background noise bother us and for those practical things that we remembered and hold dear, in life and in the practice of law. We thank you for mentoring us, sometimes very directly and at times without us realizing it. We thank you for your friendship, always steady and reliable in fair weather or foul. We thank you for your contagious enthusiasm for life and all it has to offer. And we wish you a healthy, vibrant, long and well-deserved retirement.

University of Pittsburgh Law Review  
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