

Professor Timothy S. Kaye: Stetson Law School Commencement Faculty Address

December 14, 2024

Good evening everyone and thank you Dean for that introduction. Congratulations graduates. If I had a different accent, I might be tempted to say y'all but I don't think it'll work.

I was previously asked to give the graduation speech back in December 2021, so I thought I'd done my duty in that regard, but apparently Dominique wanted revenge. Three years ago I advocated strongly that everyone, but especially lawyers, should adopt a skeptical mindset - not cynicism mind you, nor mindless contradiction, but skepticism. I think it's even more important today. While I'm not going to rehash that message today, I am going to develop one of the themes that I think flows from that - it's the need to pay attention to authenticity.

We hear a lot about the need for authenticity today, but most of what is said about authenticity is authentically nonsense. You've all been told, for example, that when you engage in legal writing, you need to find your own voice, which on the face of it sounds like being encouraged to be authentic. Yet for every time such a statement is uttered, you will have experienced at least 10 more statements telling you for example that you can't use passive voice, that you can't use contradictions (see what I did there), you need a footnote at the end of every sentence and three on Sundays - that's the Hail Mary footnote rule. And, an individual must be referred to with a singular pronoun even though we don't know who they are, and there are many other weird and not so wonderful rules that bear no relation to the way that English is actually used. Someone just made them up about 90 years ago and others have just been parting this nonsense without really thinking it through.

So clearly many of those in the legal writing establishment don't value authenticity at all - instead they authentically value conformity. I take the example of legal writing because it's easy to identify just how little some people really value authenticity. But sadly, it's not the only space within the legal establishment and the legal community where conformity is valued much more highly than authenticity.

And so if I were now to urge you all to be your authentic selves as you embark on your legal career, you could justifiably retort that if not exactly career suicide, doing so would certainly marginalize you and restrict your opportunities. Unfortunately I agree. Especially at the beginning of your careers - you have to play within the rules of the game. That's why all those commentators advocating that people should be their authentic selves are, as I said before, just talking authentic nonsense.

But here's the conundrum - if all you ever do is conform, you will never be better than who and what has gone before. You will also never be better than your peers or your competitors. Instead, you'll all be much of a muchness.

30 years ago back in the UK I directed a project that investigated what we conclusively proved to be a corrupt supposedly elite squad of police detectives. The project was funded by money raised by a member of parliament who had received many letters of complaint about this squad. The Member of Parliament had the reputation of being prepared to stand up to powerful interests. So, I asked her whether she'd ever considered keeping her head down and living a quieter less stressful life. Her reply was simple - those who keep their heads down find that their neck muscles wither. In other words, if you get into a habit of conforming. all you'll ever do is conform. You'll never be your authentic self because after a while, you won't even know what that is.

So I don't want you to neglect or spurn authenticity - I just don't want you to pay attention to the self-style guru telling you to pursue it. I want to urge you instead to take a different approach. But before I go any further, I think it's worth taking a moment to define authenticity, so I asked AI. It said 'authenticity goes beyond mere honesty - it encompasses consistency between one's words and actions, transparency in decision-making processes and a genuine commitment to one's stated values and principles.'

So bearing that definition in mind, I want you to pay attention to who around you is being authentic. And when someone shows you who they are, believe them.

I watched a bit of a football game a week or so ago - I say football but only four feet ever get to touch the ball in each game. I'll give you a moment to count them if you like. So its very name seems highly inauthentic. I think a more appropriate name would be cuddle ball because that's what everyone seems to want to do with it. Apparently, everyone apart from the quarterback is so in love with the ball that none of them can bear to part with it. By comparison the quarterback is a bit of a sociopath trying to dispatch it as often and as far as possible.

But I digress. In this game I saw Jameis Winston, formerly of the Tampa Bay Buccaneers, throwing the ball with gay abandon. Sometimes he threw it to a teammate. Sometimes he threw it to someone on the other team. The latter seemed to surprise him. "That's not who I am," he said later. "Lord deliver me from pick sixes."

Now I don't claim to have a hotline to God, but I'm fairly sure that of all the requests he must receive daily, delivering someone from pick sixes is quite probably quite low on the list of priorities. But Jameis Winston's habit of throwing the ball to the other team didn't seem to surprise anyone apart from himself. After all, his propensity from doing just that is

what cost him the quarterback position in Tampa Bay. The point is that contrary to his apparent self-delusion, a quarterback who regularly throws pick sixes is authentically the sort of cuddle ball player that Jameis Winston really is.

On a similar note, Taylor Swift has just wrapped up her multi-billion dollar tour. She played in huge venues all over the world entertaining millions. And yet she's hardly sung an audible note live in a single show. Let that sink in - she has hardly sung an audible note live in a single show. Most of the time, as Dave Grohl of the Foo Fighters has pointed out, she's effectively been lip-syncing to a backing track that actually contains pitch corrected lead vocals. By pitch corrected, I mean that studio engineers have taken recording and digitally manipulated many of the notes so they sound better than when she originally sang them out of tune in the studio. She might use a live mic so that it looks more natural but the mic is turned down so low in the mix that you can't actually hear her voice. And when she does apparently sing live, as on a few apparently stripped-down ballads, her voice is autotuned so that what the audience hears is not actually her voice but a computer's rendition with all the notes snapped to standard tuning at 440 hertz standard equal temperament.

How does her management justify this? "She's performing live." Note-- not singing live. "Live performing"-- live as in she's physically present and moving around the stage. But it's not just Taylor Swift.

Celine Dion at the Paris Olympics and subsequent shows is another and the same performing live justification has been trotted out there too. Don Henley of Eagles fame is another and practically every artist who features in the Billboard Hot 100. If you think Teddy Swims for example has a great voice, it's possible you might be right but you've almost certainly never actually heard it. Indeed record labels and YouTube channels that claim that the voice you hear is authentically that of the featured artist routinely lie - it's nearly always been digitally manipulated. Perhaps the only 21st century artist whom I could name now and whom you'll all have heard of and who never uses either autotune or pitch correction is Adele.

Swifties and indeed fans of other artists might now be reacting in several ways. Some will be in denial - you need help, seriously. And, I'm here to provide it. Others will want to justify the pitch correction and autotuning - Taylor's show is very long they'll say, and she's dancing and moving about for much of it - she's never going to have the breath to be able to sing live. Celine has had major health issues - it's a minor miracle that she's on stage at all. Don Henley is getting old - he just can't sing like he could 20 years ago even if the vocals he lip-syncs to were actually recorded 20 years ago.

On the other hand, Kate Bush and Peter Gabriel decades ago performed shows just as athletically demanding as any that Taylor Swift does now and they always sang live - so do Broadway performers and they do six performances a week. Pink does actual gymnastics in her shows and she still sings live as she doing a twisting somersault. Jeff Lynne of ELO and Traveling Wilburys fame who at 77 is the same age as Don Henley still sings live in every show- and sounds fantastic, by the way.

The point is that whether to use pitch correction and autotune or not is a choice. When that choice is made we learn a lot about which values the person making that choice holds dear - they are telling you about their authentic selves. When someone shows you who they are? believe them;

Now, some of you might be thinking that in the very divided nation, that is the United States right now, it's a bit odd for a graduation speaker to spend the time talking about Jameis Winston, pitch correction and autotune. I should instead be giving you nuggets of wisdom from when you for when you have to deal with politicians and lawyers who pardon their own sons or who promise to be tough on felons when they themselves have 34 felony convictions.

Well, actually, that's what I have been doing - it's called metaphor. Haven't you heard of AI? If you think it's okay for singers to rely on computers to do their work for them then surely it's okay for AI to do the work for lawyers. After all lawyers are busy people, and they can't be expected to draft documents or write judgments themselves. Some lawyers are getting old - not you obviously- but some are getting old. They can't be expected to write like they used to. Some have health problems - it's a minor miracle they're here at all - surely you don't expect them to do their own work.

Or you do?

Remember what I said earlier about authenticity - it encompasses consistency between one's words and actions. If you think it's fine for one type of professional to lie about what they do, how can you say it's not acceptable for other types of professionals to lie about what they do? And remember too that if you claim there's a difference you're showing everyone else who you authentically are-- and we'll believe you.

So here's the biggest lesson of all - the hardest thing is to see who someone authentically is when you like them or want to like them. Those of you who didn't like me calling out Taylor Swift or any of the other pitch corrected talentless wannabes whose noise has been fraudulently transformed into something vaguely musical can't actually prove me wrong, because I'm not wrong. You just didn't like me criticizing someone you like.

But if you aren't prepared to see who your favorites authentically are you have no business being in the law. Law is about holding people to account. I talked earlier about having to play within the rules of the game - well holding people to account is precisely what the rules of the legal game demand. If instead you're just going to give free passes to anyone you like, then the law has no purpose and no role to play.

So whether the lawyer, politician, speaker, writer, singer or cuddle ball player is on the other team or your own, assess their authentic selves. And, when they show you who they are, believe them.

Thank you.