



Ken Berry: Litigation Paralegal and Award-Winning Prisoner Advocate

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Wilder “Ken” Berry is a successful and respected senior litigation paralegal at one of Chicago’s biggest law firms, Winston & Strawn LLP. But his road to the career he loves has been marked by hardship and pain. Incarcerated for eight years due to a wrongful conviction, Berry turned an experience that would have left many people bitter and ill-disposed toward the legal system into a model for the power of advocacy and positive thinking.

Law Enforcement Career Derailed

Born and raised in the South Side of Chicago by his mother, a laid off steel mill worker who worked odd jobs to make ends meet, and his father, who worked on hydraulics at a local automotive business, Berry loved sports in high school and played basketball and baseball.

As long as he can remember, Berry wanted to be a police officer. After graduating from high school in the late 1980s, he attended Aurora University in Aurora, Illinois, and majored in criminal justice. After his freshman year, he decided to join the Army to become a military police officer. However, within a month or so of enlisting, the Army determined that he had a severe astigmatism and did

not obtain an associate degree in criminal justice in 1991.

In September 1991, Berry was hired by the University of Chicago police department, one of eight new hires chosen from hundreds of applicants. The job was the culmination of his career aspirations at the time. But, exactly two months after he started work as a police officer, he was arrested for allegedly kidnapping and assaulting a young woman at gunpoint.

Although Berry said that the encounter was consensual, he was tried and found guilty. He was sentenced to 35 years in prison. His defense attorney, Leo Fox, who was later found to have provided ineffective counsel, not only did not investigate the case or talk to Berry before the trial, but he did not call a single witness on Berry’s behalf.

A Prison Legal Education

After his first trial, Berry served eight years in prison. He spent the first four years at the Stateville Correctional Center in Joliet, Illinois, where he worked as a law clerk in the prison library and was later promoted to chief legal reference clerk.

Berry explained why it was so important to secure a position in the prison law library. “It was simple. I was told that I had

to numerous Chicago law firms to request assistance with his case. Kimball Anderson, an attorney at Winston & Strawn, reviewed his case and agreed to represent him pro bono.

Anderson remembers why Berry’s letter stood out when he received it. “He is a very articulate person and a very good writer,” Anderson said. “I get a lot of letters from incarcerated people, but Ken’s letter, plus the materials he included, persuaded me that the trial in this case had been a farce because of the misconduct of his lawyer. Ken had not received a fair trial and his lawyer had not presented compelling evidence of his innocence.”

In 1997, Berry was transferred to Hill Correctional Center in Galesburg, Illinois. He worked as a teaching assistant to other prisoners, helping some of them move beyond middle school educations and others to obtain their GEDs. He also obtained his B.G.S. in Social Science through Roosevelt University’s on-site program at the prison in 1998, graduating as the class valedictorian.



Wilder “Ken” Berry

“I just tried to stay as busy and occupied as I could. The more I kept my mind occupied and working on positive things, it made coping with the physical confinement a little better. I felt like I had some self worth,” said Berry.

On November 16, 1999, U.S. District Judge Robert Gettleman granted Berry’s petition for writ of habeas corpus

and set aside his conviction based on ineffective assistance of counsel. On December 23, 1999, Berry was released on bail. Not long afterward, in January 2000, Berry was tried again and acquitted. This time, Berry’s attorneys called to the stand the eyewitnesses who had seen Berry and his accuser together at the time of the alleged kidnapping and attack. The jury returned with a not guilty verdict in less than two hours.

Trusted Litigation Paralegal

After his acquittal, Berry worked for Chicago Catholic Charities as a mentor and guidance counselor at Garfield Alterna-

tion. Pitts had conducted Berry’s cross-examination at the second trial, knew Berry had legal knowledge and wanted to help him.

Berry is currently a senior litigation paralegal, working on both civil and criminal cases in state and federal court. Anderson described Berry as “one of our most experienced and trusted paralegals, working on some of the most complex litigation in our firm, perhaps in the country.”

Describing his varied job duties as “you name it,” Berry provides overall case management from the inception of a case through its conclusion, including pre-trial investigation, document review and production, respond-

ing to discovery, providing support at trial and assisting with appellate work. Of this kind of multi-tasking, he said, “You definitely have to be able to adapt to different situations.”

Award-Winning Prisoner Advocate and Prison Board Appointee

Berry works with Greg McConnell, the firm’s director of pro bono counsel, on active cases involving inmates. “We annually receive hundreds of unsolicited letters from inmates. We read them all and review them for merit. We don’t take many although we respond to all of them,”

One key to the firm’s success in working with inmates is Berry’s ability to get inmates to trust the legal team. “Ken treats inmates with respect and talks from their perspective. They immediately bond with him,” Anderson said.

ive High School for about six months. He admits that working as a paralegal was not on his mind. “I was still trying to adjust and take everything in. It was a bit overwhelming,” he said.

But when Winston & Strawn attorney Adrienne Pitts called Berry in 2000 and suggested that he apply for an open paralegal position with the firm, he decided to “go for

ing to discovery, providing support at trial and assisting with appellate work. Of this kind of multi-tasking, he said, “You definitely have to be able to adapt to different situations.”

A fan of legal technology, Berry primarily uses Concordance and iPro databases in unison for document production. He also relies on his Blackberry

McConnell said. “Ken is the absolute best person in the world to read through these. He’s been there; he can read between the lines and get a feel for what’s going on. Ken understands the procedural aspects. When someone says, ‘Here’s what’s happened,’ he understands the seriousness of the matter and cuts through the stuff I don’t have a good grasp of.”

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not meet its entry requirements. Berry was given a general discharge.

Berry then attended Richard J. Daley Community College in Chicago to continue his criminal justice studies. While attending school full-time, he also worked full-time for A&R Security Service as a security officer and was eventually promoted to a site supervisor position. He

two release dates, a proposed date of May 16, 2009, and a mandatory release date of November 16, 2026,” he said. “Looking at those two dates in 1992, when I was 22 years old, was something I could not accept. The law is what put me there; the law was going to free me. I needed to be as close to the law as I could get.”

After losing his state appeals, Berry wrote



McConnell emphasized that it is Berry's own experience that helps fuel the firm's commitment to addressing these unsolicited requests. "Part of our commitment to reading these letters is that we had a guy write us a letter seeking our help, it turned out to be Ken and we were able to join with

"Using time effectively is really personal to me. I will advocate for inmate education and encourage the prison system to use the time that inmates are incarcerated to help rehabilitate them instead of just punish them," Berry said.

him on his extraordinary journey," he said.

Berry also plays an integral role in the firm's assistance to long-serving inmates seeking parole. As a paralegal, Berry takes the initiative on these cases, to the extent that McConnell wryly stated, "I'm *his* wingman." McConnell noted that Berry's work-up of new cases is very thorough. By the time they first meet to discuss the case, "Ken has already gathered up the file, outlined the case, put together the materials and prepared a first draft of the letter to the parole board. I walk into a significantly developed submission and then add my own layer to it," McConnell said.

The other key to the firm's success in working with inmates on a variety of legal matters is Berry's ability to get inmates to trust the legal team. McConnell described Berry as even-tempered, patient, empathetic and a good listener. "Ken treats inmates with respect and talks from their perspective. They immediately bond with him, which makes for a much better representation through their trust in me and allowing me to learn what I need to know."

Berry knows his calm in the high-stress world of complex litigation is one of his strengths as a paralegal. "One of my old supervisors used to tell me that she never thought I got rattled on the job," Berry said. "My response to her was that after the stress I dealt with working in a prison library, the things I go through here cannot remotely compare. If someone in a prison population feels like you messed up their case, they might be looking to kill you. That's the kind of pressure you face when you help some people in a maximum security penal institution."

One of Berry's career highlights was working with McConnell to obtain parole for an inmate who had been incarcerated "under very questionable circumstances" for 34 years. "The phone call I was able

to make to his family to let them know he would be coming home makes everything else worthwhile," Berry said.

His work on these cases has been recognized through several pro bono awards, including awards from the Center for Disability and Elder Law, the Northern

District Illinois Federal Bar Association and Winston & Strawn itself. Outside of work, Berry volunteers with organizations like Positive Anti-Crime Thrust, mentoring recently released men in transition and work release centers, "helping them get back on track and make better choices." When he is not working or volunteering, Berry loves to play chess and spend time with his five-year old son.

In October 2009, Berry was appointed by Governor Pat Quinn to the Adult Advisory Board of the Illinois Department of Corrections. He knew someone had mentioned submitting his name for the appointment, but did not think much about it at the time, so it came as somewhat of a surprise. Berry is committed to being involved with the board in a meaningful way. "Using time effectively is really personal to me. I will advocate for inmate education and encourage the prison system to use the time that inmates are incarcerated to help rehabilitate them instead of just punish them," he said.

Turning a Negative into a Positive
Anderson reflected on Berry's ability to turn a traumatic experience around and use it to succeed in many areas of his life. "Ken's whole story reflects an inner strength that few people have," he said. "He had the strength to continue fighting for his innocence, to fight for a job and to fight for an education. This allowed him to overcome obstacles most people would have found formidable and indeed impossible to overcome."

McConnell also marvels at Berry's ability to work inside the prison system after experiencing so much hardship there. He described the first time that he and Berry visited Hill Correctional Center together, which was also the first time Berry had been inside a prison since his release. Normally confident and gregarious, McConnell said Berry got very quiet as they approached the

prison, but after they went inside, both inmates and guards remembered him. "It was an extraordinary experience," McConnell said. "For him to voluntarily walk back into that situation, one of the low points of his life, to help an inmate who had served 45 years of incarceration

for a crime he committed when he was 19 years old, says a lot about him."

Berry and Anderson both attribute his strong family support to his successful career as a legal advocate and his commitment to community service. "I realized that it wasn't just about me," Berry said. "Even though I was physically incarcerated, my family did that time with me. Even though none of them placed a burden on me, I felt like I owed them. One of the ways that I could pay them back was to come out, be successful and do the right thing."

Anderson, who has represented many incarcerated individuals over a 33-year career as a lawyer, said it is very difficult for many wrongfully convicted people to succeed post-incarceration and to not be bitter and angry. "It's very difficult to dig out but Ken had the intelligence and the humanity to overcome this experience, to be in a position to lead by example and to give back," said Anderson. "He is leading by example. He makes us proud. I'm privileged to consider him a friend."

For legal professionals interested in working on wrongful conviction cases, wrongful conviction centers exist in various states, Berry said. He suggested that paralegals find a local organization to work with. "There is definitely a lot of work that needs to be done in this and many other areas," Berry explained. "We need to make sure that those who are less fortunate have access to fairness and justice." □

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Juvenile Law Resources

The main federal statutes governing juvenile dependency law are the:

- Child Abuse Prevention and Treatment Act (<http://www.childwelfare.gov/pubs/factsheets/about.cfm>)
- Adoption and Safe Families Act (<http://www.childwelfare.gov/adoption/birth/workingwith/asfa.cfm>)
- Indian Child Welfare Act (http://www.nicwa.org/Indian_Child_Welfare_Act/)

Juvenile delinquency law is guided by the Federal Juvenile Justice and Delinquency Prevention Act of 1974.

<http://www.buildingblocksforyouth.org/issues/jjdpa/>

The National Association of Counsel for Children (<http://www.naccchildlaw.org/>), an organization dedicated to improving advocacy and legal representation on behalf of children, welcomes paralegals as members and provides a wide array of education and networking resources. The NACC also certifies attorneys as child welfare law specialists. The NACC's so-called "red book" (*Child Welfare Law and Practice*, edited by Marvin Vendrell and Donald Duquette) is an invaluable reference guide.

Federally, juvenile dependency law comes under the umbrella of the U.S. Department of Health and Human Services (<http://www.hhs.gov/children/index.shtml>), which provides a variety of resources and publications. Juvenile delinquency law is overseen by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (<http://www.ojjdp.ncjrs.gov/>).

Additional resources that may be of benefit to practitioners in the juvenile law arena include the:

- ABA's Juvenile Justice Center (<http://www.abanet.org/crimjust/juvjus>)
- Annie E. Casey Foundation (<http://www.aecf.org/>)
- National Center for Youth Law (<http://www.youthlaw.org/>)

the case against the minor who, like any other criminal defendant, is represented by counsel. The court's power to impose sentencing is similar to that of an ordinary criminal court except that, in most states, a minor's maximum term of confinement in a juvenile detention facility may not run past his or her 18th or 19th birthday.

In some cases, particularly where the minor's crime is especially violent or notorious, many jurisdictions allow the court or the prosecutor's office to forego the juvenile delinquency proceedings and try the minor as an adult. This controversial alternative is popular among those who support a "tough on crime" attitude. Research indicates that children do not develop adult reasoning skills until their late teens or early twenties. If a minor cannot reason in the same manner as an adult, critics charge, it is unreasonable to treat them as adults. This public policy debate does not lend itself to easy solutions, and for now, the decision to try a minor as an

adult is one of judicial discretion.

The Paralegal's Role

Juvenile law involves a broad spectrum of the tasks that paralegals might perform in any litigation-intensive environment. These tasks include data entry and case management; researching and drafting trial briefs, legal memoranda, petitions and motions; researching, drafting, preparing and filing appellate briefs; and preparing and serving subpoenas. Other common duties include reviewing and summarizing reports prepared by social workers, probation officers and others; reviewing and summarizing delivered service logs (logs of every contact between a family whose children are juvenile dependents and any social worker or service provider assigned to the case); meeting with clients to secure information and prepare declarations and petitions; and reading and summarizing new appellate opinions that affect the field of juvenile law.

Make no mistake about it: juvenile law is very litigious. Families usually want their children back and will often fight hard to get them. The children's attorneys want what's best for their clients, and their objectives may or may not match the goals of the parents or the social services agency. Foster and adoptive parents sometimes join the fray, advocating for the needs of the children in their care.

There is no typical day in the arena of juvenile law. But, just as every case is unique, every day brings with it new challenges and new opportunities to learn.

Opportunity Abounds

Plenty of opportunities exist for paralegals in juvenile cases. When a juvenile dependency petition is brought, attorneys are generally appointed for the parents (if their whereabouts are known) or other caregivers, as well as for the children. If the interests of a group of siblings diverge – for example, if one has special needs that mitigate against his chance of being adopted – then the court may appoint separate counsel for each child. Foster and adoptive parents may be represented by retained counsel but are generally not entitled to appointed counsel. The social services agency also is represented in juvenile court proceedings, often by both a social worker and an attorney. In some juvenile court proceedings, five or six lawyers sit at the counsel table, which may make for a crowded courtroom.

In juvenile delinquency cases, the minor charged with a crime is entitled, like any other criminal defendant, to representation by counsel. Most often, the minor's attorney is appointed from a pool of lawyers who agree to represent juvenile defendants, but sometimes a family with the financial resources to do so will retain counsel for their son or daughter. The prosecutor's office is, of course, represented by counsel as well.

In all but the largest cities, the law firms that handle these appointments are fairly small. In my county of about 400,000, the duty of representing the children in the dependency system is split for geographic reasons, with a solo practitioner handling some cases and the firm I work for (three attorneys, one paralegal and a part-time investigator) handling the rest. At any given time, we have | **continued on page 35**