

## PROFESSOR ANSELMO REYES (1): ADVICE ON LEGAL WRITING

### **What makes good legal writing in English in academic settings?**

I think, I find most accessible, legal writing that identifies, at the very beginning, what exactly the author, the lawyer, the judge is trying to resolve, is trying to answer: what are the questions, the issues that are being posed and that are going to be answered in the writing? So that needs to be identified at the outset and then each issue is systematically tackled in the course of the writing.

How exactly an issue needs to be tackled depends. If it's a legal argument, typically, what I recommend to students, to other judges, is that the writer states what are the losing side's points or the other side's points and what are the flaws in the other side's points. You take the strongest point made by the other side and then you identify the flaws. Take the next best point, identify the flaws until you exhaust the points. And then you come to your conclusion on that issue. Move on to the next issue, and respond in exactly the same way.

### **As a law professor, what are you looking for in the writing that you read?**

Clarity, succinctness, simplicity but not over simplistic, frankness, realism, honesty.

If you're going to persuade in writing or in speech, you've got to be interesting, you've got to think of ways in which to do it without being too complicated, so that people can follow what you're saying.

### **What are the main challenges of legal writing and how can they be overcome?**

The challenge is it's actually more difficult to be short than to be long. So in order to be short, you have to think about what it is you're going to say. You have to think about what are the real issues of the case. Not the hundred mini-issues, sub-issues, but the two or three principal issues, and most things are just about two or three key issues, and maybe sub-issues. Identify the key issues. That's an art, not necessarily science. And then deal with them succinctly, efficiently, but in a way that is credible, persuasively.

**What advice do you have for students who are learning legal writing in English?**

I think the object is to identify the key issues. State the key issues at the very beginning and then deal with the issues. Apply the law to the facts: identify the law applicable to the issue identified and then apply the law to the facts. And that may require some grappling with the facts, some attempt to characterize the facts, and lead to some conclusion. So it's not enough to say, 'This is an issue, and the law may be this or the law may be that'. That doesn't help anyone. 'This is the issue. The law on this is that. The law may be obscure on certain points. Applying the law to the facts, one comes to this conclusion'.

Because of the obscurity, one can't one hundred per cent be sure, but from the case law, from academic writing, the best point of view is that this is the actual way of resolving that obscurity with this result. So on the balance of probability, the court will go this particular way. That sort of neat exposition of the law from identification of the issues, identification of the law applicable to the issues, application of that law to the facts, and arriving at some conclusion on that issue before moving on to the next issue and dealing with it in the same way. That, I think, is the best way to approach legal writing.