

DAVID L. BAZELON

BERTRAM S. BROWN†

It is no accident that the spectacular growth in the involvement of the law with the problems of the mentally disabled has coincided with the judicial career of David Bazelon. The Judge's relationship to the mental health professions has been, for those of us inclined to analysis, a study in creative conflict.

At first he seemed too good to be true—a judge who actually wanted to hear what we had to say, who thought it was as important to understand *why* a person behaved as it was to learn *how* he behaved. The *Durham** decision and those that followed seemed to herald a new era in which the legal and the mental health professions together could apply the best available knowledge and insights to help the unfortunate who streamed through the judicial system. We took the Judge to our bosom, naming him an honorary fellow of the American Psychiatric Association and a member of the National Advisory Mental Health Council.

But this was no sheep in wolf's clothing. Determined to be a truly helpful and honest friend, he turned to a device that is eminently appropriate both to his profession and to ours—he asked questions. I remember early discussions where, sometimes unfortunately for us, answering his questions only increased his ability to ask more embarrassing and disturbing questions. I once explained to him that in psychiatry we often made a “dispositional diagnosis,” which had nothing in particular to do with a specific syndrome in the diagnostic manual, but rather depended on the outcome which I, the psychiatrist, thought best for the patient—hospitalization, community care, or whatever. I was soon made to realize the enormity of my offense against justice, and the hubris of the role I had undertaken.

I well remember, too, when Saint Elizabeth's Hospital in the District of Columbia first came under the direct administration

† Director, National Institute of Mental Health. B.A. 1952, Brooklyn College; M.D. 1956, Cornell University; M.P.H. 1960, Harvard University.

* *Durham v. United States*, 214 F.2d 862 (D.C. Cir. 1954).

of the National Institute of Mental Health. The question was raised at the National Advisory Mental Health Council whether or not a patient had the right to representation at the staff meeting where the diagnosis would be determined. The Judge rose in outrage and, brandishing all his considerable clout as the Chief Judge of the United States Court of Appeals for the District of Columbia Circuit, threatened to hold me in contempt of court if I didn't obey his edict to enforce this right for patients. Feeling equally indignant at this threat to the essential nature of the staff meeting and the diagnostic process, I had the temerity to point out that he could not hold me in contempt of court because as a member of the Council that supervised the Institute, he was in a position of conflict of interest. Judge Bazelon the psychiatrist and Bert Brown the lawyer fought it out with equal ferocity and sincerity, but at no point did either of us doubt that it was the good of the patient that we were both after. Ten years later we are still good friends.

This ability to provoke creative, though painful, conflict while remaining friends, is a measure of the warmth and humanity that go with his passion and dedication. It has also been evident in another dimension of Judge Bazelon's life, one that I call "the College of Invisible Alumni." I've been privileged and honored to be one of those who, as a very young person, worked with him and for him, helped him in his thinking, looked at his draft speeches. At times one had the sense of being "orally incorporated," in the psychiatric jargon. But yet, I found that I emerged at the other end not only intact but enriched. The College of Invisible Alumni are many, representing leaders in the psychiatric, mental health, and legal professions, who have been in the forefront of reform in the mental health field. Perhaps this heritage of people, who in passing through the crucible of contact with him have absorbed the vital force of his passionate concern, will be as great a heritage as the landmark decisions he has made.