



## FLORIDA BAR NEWS

# THE MINDFUL LAWYER: FURTHERING THE CAUSE OF JUSTICE

By Scott Rogers ▶ Special to the News ▶ Columns

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We lawyers are guardians of justice. Whatever our practice area, whatever “side” we are on, whatever our political or ideological leanings, we are stewards of the rule of law. Earlier this month, the Young Lawyer’s Division of the ABA initiated a five-part series titled, “Liberty & Justice ... For All? Confronting Systemic Racism and Addressing Civil Unrest.” In discussing the series, the YLD wrote that “Protesters, advocates, and lawyers have united to demand meaningful change; are calling for an end to systemic racism, police brutality in communities of color; and encouraging personal and institutional reflection to further anti-racism.”

The question of how mindfulness can play a meaningful role in furthering the cause of justice has been explored by members of the legal profession for more than 20 years, often focusing on ways of reducing stress and incivility, improving mental health and wellness, and enhancing client services and job performance. One of the classes I teach is “Mindfulness in Law,” a seminar where students learn about mindfulness and its connection to the practice and substance of law. Last year a student, Luke Arrington, chose to investigate the role mindfulness can play in the creation and enforcement of laws that are built on an edifice of systemic racism. This month Luke shares his thoughts, responding to a series of questions that address this issue.

### FOR READERS WHO MAY BE NEW TO MINDFULNESS, WHAT DOES MINDFULNESS MEAN TO YOU?

*Mindfulness is purposeful awareness of our own thoughts and feelings in a non-judgmental way. To be mindful is to be present and aware of the moments we find ourselves in. It is noticing when thoughts arise within us. I think mindfulness enables us to interact with others while limiting our own biases. It helps eliminate preconceived notions we might have about people, environments, and situations we find ourselves in that may be different than we are accustomed to.*

## WHAT ARE YOUR THOUGHTS ON THE ROLE OF MINDFULNESS AND THE CREATION AND ENFORCEMENT OF LAWS WITH REGARD TO RACISM IN AMERICA?



*The more I learn and practice mindfulness, the more I realize how applicable mindfulness is in all life experiences and certainly in legislation and law enforcement.*

*One of the main attributes of mindfulness is that it is a quality of awareness that is non-judgmental. In order to let go of judgmental notions that are harmful, we must first be aware of our own bias, which can affect people's lives on an individual and societal level. Take the judicial system, for example. Judges, attorneys, and jurors all have their own life stories and conditioning which has resulted in biased ways of seeing the world and each other, whether racially motivated or not. That bias and pre-judgment can be negative or positive, and influences the criminal justice system, which historically has adversely affected the treatment of African Americans and various people of color. This is our history. I believe the lack of awareness of racial bias is one of the leading causes of institutionalized racism. If we are going to rectify the issue of racism in America, we have to fully acknowledge and embrace the fact that racism is still very much an issue today which calls for an awareness of the beliefs, biases, and judgments that can lead to our not seeing it, not wanting it to be true.*

## HOW MIGHT BEING MORE MINDFULLY AWARE IN DAILY LIFE MEANINGFULLY INFLUENCE OUR LEGAL SYSTEM?

*I am a strong believer that mindfulness can be a meaningful part of the solution to the racial issues facing America's legislative and judicial system. From a legislative point of view, our legislators must be able to mindfully listen to their constituents. Somehow, the existence of racism in America has become a polarizing and often debated issue. We as a society do not want to acknowledge how prevalent and pervasive racism is in America. Mindful listening helps to create a receptive state of mind where we are not listening to rebut, but to gather information and learn. Mindful listening is a state of purposeful awareness where we listen not only to the words we hear, but to our own reactions — thoughts, feelings, body sensations, and impulse — that often arise beneath awareness and, without awareness, can distort what we are hearing and reinforce unhelpful beliefs and biases. My hope is that through mindful listening, those of us who are oblivious to or in denial to the racial dilemma will become aware of racial inequalities in the judicial and legislative system. And by listening mindfully to ourselves, we can come to see our own*

*biases in the light of awareness that does not judge ourselves bad for having them, but free to see them for what they are and discard them.*

*When we as a country become aware of the inequalities that are often brought about as a result of our racial bias and prejudice, we can begin to “check our bias at the door.” Rather than bringing our bias into the judicial and legislative systems and workplace, we acknowledge and relinquish them. The stakes are too high for us to make decisions that adversely affect people based on the color of their skin. That has been the status quo in America for far too long.*

IN WHAT WAYS MIGHT MINDFULNESS PRACTICES BE HELPFUL AS OUR SOCIETY ENDEAVORS TO MORE FULLY ACKNOWLEDGE SYSTEMIC RACISM AND CHART A PATH FORWARD?

*I believe that mindfulness can only be achieved through practice as it takes work to undo beliefs that we did not ask for in the first place, and be more at ease in the midst of unpleasant feelings that we all too quickly turn away from. There are many forms of practice from many wisdom traditions that can help us be more mindfully aware. Those labeled “mindfulness practices,” like focused attention and the body scan are easy to learn and practice. Importantly, I think mindfulness is more of a journey than a destination, and practice keeps us on the path. There is one mindfulness practice that specifically comes to mind that I think would be beneficial to incorporate within our society. It is known as lovingkindness meditation. One of the essential benefits of this practice is that it promotes a sense of connectedness within our society regardless of our differences. The practice begins by bringing a sense of oneself to mind and silently wishing:*

*“May I be happy,”*

*“May I be safe.”*

*“May I be healthy,” and*

*“May I live with ease of heart and peace of mind.”*

*We then wish this for a benefactor — someone who has been very good to us in our life. We then bring to mind a neutral person and wish it for them, then a difficult person, and the practice closes by wishing these qualities to all beings. I encourage readers to practice this exercise as I have found it helpful for feeling more interconnected with others. I invite you to add another step which is so important today.*

*Perhaps after the neutral person and before the difficult person, bring to mind someone who is different from you, perhaps culturally or demographically. If you're black, bring to mind someone who is white or brown. If you're white, bring to mind someone who is black or indigenous. When you have that person (or even group of people in mind), offer them the phrases of love and kindness. I believe that this fosters a community of love and understanding regardless of our differences.*

During our discussion, Luke and I thought it might be helpful to share with readers two practices. In the first, Luke guides me in a 10-minute lovingkindness practice. In the second, I guide a short breathing practice that offers a poignant period of reflection on the final moments of George Floyd's life. Click here ([https://bit.ly/fbn\\_july2020](https://bit.ly/fbn_july2020)) to view these guided practices.

I am immensely grateful to Luke, both for taking the time to engage in this conversation and for his meaningful contribution to the Mindfulness in Law class, helping inform our shared understanding and appreciation of these issues and challenges. Luke is presently studying for the bar and will be joining the Cook County State's Attorney's Office in Chicago, Illinois, as an assistant state's attorney.

If you have a question about mindfulness and integrating it into the practice of law that you would like answered in this column, send it to [srogers@law.miami.edu](mailto:srogers@law.miami.edu).



*Scott Rogers, M.S., J.D., is a nationally recognized leader in the area of mindfulness in law and founded and directs the University of Miami School of Law's Mindfulness in Law Program where he teaches mindful ethics, mindful leadership, mindfulness and negotiation, and mindfulness in law. He is the creator of Jurisight, one of the first CLE programs in the country to integrate mindfulness and neuroscience and conducts workshops and presentations on the role of mindfulness in legal education and across the legal profession. He is author of the recently released, **"The Mindful Law Student: A Mindfulness in Law Practice Guide,"** written for all audiences.*