



FLORIDA BAR NEWS

THE MINDFUL LAWYER: BEING PRESENT FOR YOUR EXPERIENCE

By Scott Rogers ▶ Special to the News ▶ Columns

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In today's column we are going to reverse engineer a popular mindfulness practice known as Focused Attention. Doing so will help clarify what is meant by being present, a term familiar to many that can come across as too vague to be helpful. After all, what does it mean to be present? Aren't we always present? Well, yes and no.

If you find practicing mindfulness to be challenging at times — for example, to sit and pay attention to the breath for 10 or 15 minutes — this unpacking of the practice may meaningfully shift your understanding of what the practice is all about. It is an interesting thing that the practice of mindfulness, which asks very little of us (there is no cost, nowhere to go, nothing to read, and nothing to do) can be challenging to implement and sustain. What's going on here?

MINDFULNESS AND THE FOCUSED ATTENTION PRACTICE

People interested in mindfulness learn of the important distinction between mindfulness and mindfulness practices. *Mindfulness* is a quality of presence whose signature features includes a relatively undistracted state of focused attention, an open and receptive awareness, and mental and emotional flexibility and steadiness. We tend to be at the top of our game when our mindfulness runs strong. *Mindfulness practices* are exercises that help cultivate these qualities and Focused Attention is one such practice. Its instructions are simple and probably familiar to you:

1. Rest attention on the breath
2. When you notice your mind has wandered and you have been lost in thought,
3. Bring attention back to the breath

A pretty good definition of mindfulness is “being present for your experience.” When you are present for your experience, you are mindful. If you want to *practice mindfulness*, you can set aside a period of time to “be present for your experience.” The instruction above is not a method to be present; rather it a set of

pointers — especially Nos. 1 and 3 — to help us remember to be present. No. 2 isn't really an instruction at all for you can't will yourself to notice that your mind has wandered. It just continues to happen — throughout a period of practice, and throughout the day. Paradoxically, by realizing it you are no longer lost in thought.

All mindfulness practices have the same bottom line — be present for your experience. Nothing needs to be added. The problem is that most of us do not know what it means to be present for our experience, simple as it sounds. As a result, many periods of practice can be met with frustration or doubt or confusion because of a persistent belief that we are not doing it right, can't do it, or that it doesn't work. If you have never practiced mindfulness go ahead set a timer for three minutes and follow the instruction, "be present for your experience." If you have practiced, you may want to try this out as well.

MIND WANDERING IS A PART OF THE EXPERIENCE

If you just did this type of practiced for the first time, you may have noticed the arising of thoughts and gotten distracted for a few moments. As people who have practiced before know, this is common. Mind wandering is a natural phenomenon that reliably occurs during every mindfulness practice. While sometimes we notice it, there are other times when we simply are lost in thought. If you pay close attention, this is what you will encounter when you are *present for your experience*. But because the general instruction "be present for your experience" is not always so helpful given the confusion that can arise amid mind wandering, we can add a helpful pointer:

- When you notice your mind wandering, be present for your experience.
- If you were to practice for another three minutes, this instruction would help clear up some of the confusion. But, you might still inquire "what do I do?" . . . in order to be present. For this we can add another helpful pointer:
 - When you notice your mind wandering direct attention to the breath.

Because the sensations of breathing are always a part of one's experience, this instruction is less vague and offers a concrete example of how to be present for one's experience. The sensations of breathing are always arising in the present moment. Of course, so too are many other things, but it can be helpful to

narrow the field and the breath tends to be a good choice. It's always there. It's familiar. You don't have to search for it.

STAYING ON THE PATH

If you were hiking up a mountain, the general instruction would be something like “walk up the mountain.” Because from time to time you might wander off the path, a useful pointer would be “if you notice you are no longer on the path, get back on the path.” It's sort of the same thing with mindfulness.

The heart of all mindfulness practices carry the same general instruction to “be present for your experience.” But — because the mind will wander (often and forever, so give up any efforts to interrupt this natural and often useful process) — a pointer can be helpful when we realize we have been lost in thought. The key is that the mind wandering is not a problem. If there is a problem, it's not knowing what to do when you detect mind wandering. For simplicity's sake, direct attention to the breath, knowing full well it will take off again, soon enough.

TAKEAWAY PRACTICE AND TIP

Here is this month's practice instruction: set aside a few minutes during the day and *be present for your experience*. Whatever you experience, you will be present for it. You just may not know it at the time. Sooner enough, however, you will. If a few pointers would be helpful, then follow a practice instruction like [Focused Attention, or the Body Scan, or Open Monitoring](#). Above all, remember they are simply pointers to being present for your experience.

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.



*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.*