

Oral Advocacy and Persuasion

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I. The “Art” of Persuasion

A. What is an Art?

1. Human Creativity, Skill, Craft
2. You can practice it and get better
3. Great artists of persuasion may be born with certain characteristics that give them a leg up, but great artists are not born, they are created through focused effort
4. However good or bad you are; you can get *better*

B. How do we get better?

1. Be comfortable and appear comfortable
 - Nervous? Ask yourself why, and fix that problem
 - Get comfortable being on your feet and speaking
 - Take advantage of no risk / low risk situations to practice the art of taking charge of a crowd and commanding their attention
 - Learn to carry on a conversation with the Court
 - Mind your pace
- 2.. Be yourself
 - Find your style: effective advocates have many different personal styles. Find the one that is natural for you and maximize it.
 - Literally and figuratively, “find your voice”
3. Be prepared

- Nothing will relax you more and enable you to focus on *advocating* than knowing that you *know your case cold* !
 - Materials should *help* not *distract*
 - Audio / Visuals
 - Demonstratives
4. Be helpful to the Court
- What you want to say is important
but what the Court *wants to know* is **more** important.
 - Questions from the Court are a *good* thing!
 - Don't interrupt
 - Don't be afraid to concede the obvious -- it streamlines the case for the Court and builds your credibility
5. Learn to be a good story teller
- Not all of your arguments will require a true "story", but all of your arguments will benefit from good story-telling skills.
 - What makes a good story?
 - A good beginning -- something that peaks the initial interest.
 - An ending -- hopefully a happy one.
 - Everything between the beginning and the ending is important to your purpose.
6. Follow Aristotle's Advice

II. Aristotle's *A Discourse on Rhetoric*

- A. Well dispose your audience to you and ill dispose them to your opponent
- B. Maximize your key points, minimize your weaknesses
- C. Refresh the memory of your audience frequently
- D. Execute at the required level of emotion

III. Practical Tips to Improve the Likelihood You will be Persuasive to the Court:

- A. Be prepared
- B. Know and follow the rules
- C. Be nice to the staff, the law clerks, etc.
- D. Don't waste time / eliminate fluff and overkill
- E. Relate your argument to something familiar to the Judge (your audience)