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FRANK POMMERSHEIM†

**“To An Athlete Dying Young”: For Tom Horton
(May 9, 1955 – November 15, 2022)**

The more I think of the sudden loss of our dear friend and colleague, Tom Horton, the more I am reminded of the poem “To An Athlete Dying Young” by A.E. Housman. Of course, Tom was a stellar scholar, an incredible teacher, and an amazing trial advocate, but he was also a deeply committed athlete (he played baseball as an undergraduate at Harvard) and follower of sport. Football, basketball, baseball. You name it. He was steeped in both the now and in the history of each sport. For example, he was totally devoted to Coyote Women’s Basketball. He knew the name and stat sheet of every single woman on the roster. He was a faithful fan and almost never missed a game. That’s just who he was.

Often Tom and I just stood outside his office and talked and talked about the heart and soul of modern sport at both the college and professional level. We often heard many of our colleagues closing their office doors. Tom and I just sighed and joked that we needed to move forward with our intended podcast, which was to be entitled, “Two Law Profs with Tenure Hold Court on the Restatement of Sport.” But, alas, it never happened.

In the last year or so, Tom would occasionally (and spontaneously) review his medical history with me. It included multiple back and spinal surgeries, compromised organs, and adverse genetic inheritance. He did it not to complain or to obtain sympathy, but just to fill me in on that difficult and daily round of pain and suffering that he often had to contend with. I was amazed and even a little shocked. Yet he was relentlessly “old school.” You know that way. You just do the work because that’s what is in you. To teach your students with love and rigor and to push the envelope of cutting-edge scholarship and trial advocacy. I (and many others) worried that he was taking on too much and urged him to slow down, but Tom was listening to a different drummer.

This fall semester I asked Tom if I could come to his Civ Pro class to speak briefly and to read a few poems on 9/11. Tom graciously agreed. He thought it was a great idea. I went to his Civ Pro class which included all eighty-eight first year law students. I just expected Tom to identify me as an emeritus professor and let it go at that. But that wasn’t to be the case. Tom spoke at some length of my teaching, Indian law scholarship, tribal justice work, and even my college basketball days. I was nonplussed. It was full of over-the-top generosity and good will. The next day before I could even thank Tom, he thanked me for coming to his class and reading those 9/11 poems. “We needed that” is what he said.

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† Professor Emeritus, University of South Dakota School of Law. Frank was a longtime colleague and friend of Tom Horton.

These are the lines from the A.E. Housman poem that most deeply reverberate for me:

Today, the road all runners come,
Shoulder-high we bring you home,
And set you at your threshold down,
Townsmen of a stiller town.

Tom Horton was most definitely an "athlete" and yet he was so much more as a teacher, scholar, and trial advocate. His playing days have come to an abrupt end, but it is up to all of us as students, friends, and colleagues to cherish and to hold his "life" close to our hearts and minds as we continue to struggle to find the way to go forth.

With peace and admiration,
Frank Pommersheim
November 29, 2022