

Voiceover: Welcome to the Extra Mile Podcast for Bar Exam Takers. There are no traffic jams along the extra mile when you're studying for your bar exam. Now, your host, Jackson Mumey, owner of the Celebration Bar Review.

Jackson Mumey: Well, hey everyone. Welcome to the Extra Mile Podcast for Bar Exam Takers. This is Episode 31 and this is Jackson Mumey talking to you today. I hope that you're having a good week. We know that bar results are starting to come out, a little more frequently now and we're in the midst of that period when big jurisdictions begin to release results. That means that a lot of you, particularly in states like New York or New Jersey, you might be sitting on pins and needles waiting when do the results come out or have they come up. Maybe they've come up at the time that we actually release this episode.

Today's episode is going to be focused on the question that sometimes gets asked, which is, "Why do some people fail the bar exam?" or more pointedly, "If you fail, why did I fail my bar exam?" Now, this is a little different than some of my previous episodes where I've talked about knowing if you failed and post-mortemming the exam. What we're going to be talking about today is really a list of items, things that people say, write, express that we've seen, I've seen over the years about why they failed their exam. Then I'm going to give you what I think the real reason behind that is as well as some analysis of those various reasons that people offer for failing.

Now, if you've not yet taken the bar exam. You might say, "Well, do I really want to listen to this?" and the answer is yes. I think you want to be aware of the kinds of things that happen after the exam when people are trying to come to grips with their circumstances. If you can avoid some of those problems at the outset, you're way better off. I also think that if you've taken the bar exam and if you failed it, you're going to hear in this list some things that perhaps you've said or thought or expressed, and I think it's useful to get a different take perhaps on some of that. Maybe you'll agree with me in my views about why people fail their exams.

In any event, I think this is a useful episode for you to listen to. As I often say with these episodes, sit back with an open mind. I think I'm probably going to burst a few balloons and trash a few sacred creeds of the bar exam and the legal profession. That seems to be my role in the world, but I think it's okay. I think you'll survive the shock of the experience. Frankly, if you've taken and failed the exam, I think you'll really find it helpful to hear this discussion.

Now, I also want to invite you, if you want to know more about the bar exam to join me on Thursday for a free live webinar. It's called how to make the next bar exam your last bar exam, and we'll dive deeper into the four steps that every bar taker has to take in order to pass their exams and look at some of the things, in fact, that are in today's episode in greater depth. It's a 90-minute free

training filled with items and information that you can use right away whether you're a first time taker or repeat bar taker or maybe you're someone who's taking the bar exam after a long absence either of time or distance from the test. I encourage you to join us for that.

As I said, it's free. However, I do cap the size of the class because we try to have enough space for interaction. You can register for your seat in one of two ways. You can go to our website at celebrationbarreview.com/webinar. Again, that's celebrationbarreview.com/webinar, and reserve your seat there or you can reserve a seat just by texting the phrase "NextBarExam." That's "NextBarExam" to 33444. Text the phrase "NextBarExam" to 33444 and we'll get you registered that way.

The webinar is Thursday at 3 PM Eastern. That would be at noon Pacific Time. We'd love to have you join us for that. I think you'll find it really helpful and quite useful as you prepare your studies for the upcoming sets of exams in 2016 and maybe even 2017 or beyond.

I also want to invite you, if you're enjoying this podcast episodes, to subscribe to our podcast. You can do that on iTunes or you can go to our website at celebrationbarreview.com. You'll see the link to podcasts at the top of the page. Just click there and you'll find all of our past episodes along with the show notes as well as the opportunity to subscribe from those show notes. I invite you now to sit back and listen to this lecture on why some people fail their bar exam and see if any of it describes you or people that you know.

Hello, welcome to Celebration Bar Review. We're doing a video series on exam peace and in this message, because results are beginning to come out in different jurisdictions. If you've been following along in the series, I've been talking post-mortems, what you do after the exams or waiting for your results to actually getting your results. Now, I want to talk about what can be the unfortunate result for some people, which is that they fail the exam.

The other day, I was looking at the keywords that people use to find our website that Google puts up, and there was a Google search that had come out that said "Why do I keep failing the bar exam?" It's heartbreaking when you see that. It's not our students typically, but there are those people that just keep failing the bar exam. The question "Why do I keep failing?" stuck with me and made me think perhaps it would be helpful to talk about, in my experience, why I have seen or the reasons that people give for why they keep failing the exam.

What I'm going to do in a sense is play an advocacy role here. I'm going to give you a fair number of the things that I have seen that people say as the reasons why they fail the exam. Then I'm going, at the end, this is the hook, I guess, I'm going to tell you at the end why I think people fail the bar exam. It may surprise you because it's not going to be the things that are on this list, but I'll make some comments as we go through. These are the things in nearly 20 years of

working with bar takers that I hear and see and read from people who fail typically more than once, although certainly one-time failure is enough.

Probably the number one reason that I hear from people as to why they fail the bar exam is they'll say I didn't study enough. It's an interesting comment. I don't know what enough is. Some people will say I studied too much. I had a student tell me that they were studying 15, 18 hours a day because their big box generic bar review told them that that was the way to absolutely make sure they pass. Then they said, "In retrospect, I think I was so stressed out, I'm burned out from all of that study that it didn't work."

On the other end of the spectrum are those people who just beat themselves up incessantly and say, "Well, if I spent a hundred hours studying, I should have been 200. If I spent 200 studying, it should have been 400." It is the classic Type A personality that says whatever I did wasn't good enough. That's often what gets people in the law school and into this career begin with. It's very debilitating methodology and approach to take. For those who say they didn't study enough, unless you didn't study at all, the odds are probably that you did study enough. That's probably not the reason.

Sometimes, connected with that, I'll hear people say, "I didn't memorize enough." When I hear that I know that I'm talking to someone who's really bought into the whole generic bar review approach, which is simply we're going to present a bunch of ideas to you. You memorize them. It's up to you to make it happen. I think if the bar exam really were a test in memorization, the most successful people would be those that are best at memorizing, at mnemonics, at hypnotizing people to get them to memorize.

I've never seen any empirical evidence that suggests anything of that sort. I don't really think memorization makes a big difference. I truly don't believe that in the practice of law, memorization has much of a role at all. I give the bar exam just more credit perhaps than others in thinking that they're not really testing a skill that you never use in practice. For those that think they don't memorize enough, I doubt if that's the case.

Some people will say, "I fail because I don't do enough practice questions." Again, that mythology that if 10 questions are good for you, 10 essays, 15 would be better or if 1,500 multiple choice questions were good, 3,000 would be better. Even if those 3,000 are ridiculous garbage questions written by companies that have no idea of what the actual bar exam looks like, again just doing questions seems to miss the point. It's not doing the work. It's getting value of the work. For those that say they didn't do enough practice questions, I'm skeptical of that claim as well.

Some people will say, "I failed the bar exam because I didn't take the biggest bar review. I mean actually it's not so much students that would say that; it's probably the big bar reviews who would say, "If you don't take us because we're

huge, then you're going to fail," which is really bizarre because statistically, they have a higher fail rate than anybody out there. The state pass rate is 30%. That's their pass rate and that's the big bar reviews pass rate. One of those big bar reviews is giving their course or giving money back if you fail and they are losing big right now because they've got huge numbers of people that fail. Taking the biggest bar review, that makes no sense at all as a reason why you'd fail, [inaudible 00:10:30] reason why I get passed, but it's not a particularly strong reason for passing or failing.

Sometimes people say, "I failed because I wasn't smart enough or I'm not a good enough test taker. I'm not a good enough essayist or multiple choice question test taker." That's an interesting question. You were good enough to get into law school. You're good enough to be in this profession. You're good enough to practice law if that's what you're doing before you took the bar in another jurisdiction. Hard to believe that you're not smart enough or not a good enough test taker. Sounds more to me like maybe you didn't understand what was being asked of you or able to do what the specific task was but rarely do I find that people taking the bar exam aren't smart enough. That's not really been my experience.

Sometimes people will say, "Well, I didn't pass because I didn't know the secret." Really? I don't either. I mean I think I know what causes good bar taking and bad bar taking but I don't think there are secrets. I think when you buy into that notion that there's a hidden secret and if you can just discern that hidden secret, you win, that's simplistic and it's probably not very accurate and not very realistic.

Sometimes people say, "I didn't pass because I was too old or I was too young or I went to the wrong law school or I had teachers in law school or I had bad teachers in the bar review." Again, it's all externals. It's not my fault. I'm too old. I'm too you. My teachers were good. My teachers were bad. My law school is bad. I've seen people from the best law schools who failed the exams. I've seen people from the worst law schools who passed the exam. I don't really know if it's the law school. I've had students as old as 78, 79 years old pass the exam. I've had some brilliant young students at 22 pass the exam. I don't think it's really age-related. I've had some that told me they had awful teachers in law school. Others had said they had great teachers. That don't seem to really make a difference at the end.

Some people said they failed because they just got bad advice. Maybe that's true. It certainly can be a hindrance, but I don't know that it's the reason for failing. Some fail because they can't speak or write English properly. I think that's probably a legitimate reason to come up with. Not the only reason. If you're good enough to really sit for the exam, you probably can speak and write enough English to get through it. It may not give you an advantage, but frankly, I've seen plenty of people who are born and raised in the United States who should be able to speak and write English who failed this exam.

Some will say they failed because the test is unfair or the grading is unfair. Again, it would be nice to think that that's really true. It's certainly got some element of it makes you feel good that the test is unfair or the grading is unfair, but in large numbers and when you look at it over a period of time, there isn't really the empirical evidence to support that position either. It's more of a felt disparity than a real disparity.

Some will say, "I started studying too late or too early." Again, I'm not sure what the right answer would be. You start studying with enough time to get the work done. Some will say, "I didn't get enough personal attention or I got too much personal attention I didn't want." Some will say, "I can't read fast enough" or "I can't write fast enough." Again, there's no consistent correlation with any of those things.

I could probably go on and on with that list. It seems that it's a series of cascading failures that one thing leads to the next that leads to the next that leads to the next. As a result, when people continually fail the exam, there seems to be more than one of those things on the list. What is it that I think actually causes people to fail the bar exam? In truth, I think that all of these things on the list are simply outward manifestations of inner beliefs. I really think and have seen that how people believe, what they believe is going to happen to them, has more impact on their pass or fail than any of the things I just went through on that list.

In other words, if at your core you don't believe you're good enough, it is difficult to overcome all of the external barriers to being successful on the exam. Alternatively, if you really believe you are good enough and talented enough and capable enough, then you are able to overcome all of those external barriers that might exist. That might seem like it's just too easy feel good stuff, but 20 years of doing this, it's pretty consistent that those that believe they'll pass, pass, and those that believe they'll fail, fail. I hope you find some peace with that. Thanks.

Well, that wraps up today's episode. Thanks so much for listening. If you'd like to be part of our Extra Mile for Bar Exam Takers private Facebook group, just check the show notes. You'll find the link in which you can request an invitation and we'll see you along the extra mile.

Voiceover:

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