

CHAD W. FLANDERS

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EMPLOYMENT

Professor of Law, Saint Louis University School of Law (2009-, with tenure 2014-)

Courses: Criminal Law; Criminal Procedure (Investigation and Adjudication); First Amendment; Religion and the Law, Election Law; Death Penalty; Punishment and Forgiveness (philosophy department), Philosophy of Law (philosophy department)

Service: Self-Study Committee, Faculty Development Committee, Center for Comparative and International Law, Faculty Senate Advisory Committee on Scholarship, Appointments Committee, Bar Committee, Hiring Committee (for various positions), Faculty Mission Liaison, Re-opening Committee, Law Journal faculty advisor.

Volunteer public defender, Missouri Public Defender (2019-present) (argued *State v. Thurmond*, 616 S.W.3d 316 (Mo. App. 2020) (trial-level, direct appeal, and post-conviction)

Volunteer Attorney, Fairbanks District Attorney's Office, State of Alaska (Summer 2020) (handled day-to-day responsibilities of line DA)

Volunteer Attorney, Kenai District Attorney's Office, State of Alaska (Summer 2019) (handled day-to-day responsibilities of line DA)

Visiting Assistant District Attorney, Anchorage District Attorney's Office, State of Alaska (Fall 2018) (handled day-to-day responsibilities of line DA)

Visiting Attorney, Appeals and Statewide Defense, Office of Public Advocacy, Anchorage, Alaska (Summer-Fall 2011, Summer 2012) (briefed and argued two cases before the Alaska Court of Appeals, *State v. Phillips*, 271 P.3d 457 (Alaska App. 2012) and *State v. Lawrence*, 269 P.3d 672 (Alaska App. 2012)

Fulbright Scholar, Nanjing University Law School, China (2012-2013)

Courses: Criminal Law; Philosophy of Law; The First Amendment; The Death Penalty
Service: Coach, Jessup International Moot Court Team. Assisted arbitration and international humanitarian law moot court teams at Nanjing University and at the Johns Hopkins-Nanjing Center, Nanjing, China.

Visiting Professor of Law, DePaul University School of Law (2013-2014)

Courses: Criminal Procedure; Criminal Law; Sentencing Law and Policy

Visiting Lecturer, Beijing Foreign Studies University (Summer 2013, Spring 2014)

Week-long lecture courses on “The American Legal System” and “The First Amendment”

Visiting Lecturer, Beijing University of Chemical Technology (Summer 2014), Week-long Lecture course on “The American Legal System.”

Visiting Lecturer, Sichuan University (Summer 2016)
Week-long lecture course on “The Bill of Rights and the Constitution”

Visiting Lecturer, Pázmány Péter University (Spring 2018)
2 week seminar on “Constitutional Conflicts: Free Expression and Criminal Procedure”

Visiting Professor, Suffolk School of Law, Boston, MA. (Spring 2019)
Courses: Constitutional Criminal Procedure (2 sections)

Visiting Lecturer, Washington University School of Law, St. Louis, MO. (Fall 2019, Spring 2021)
Courses: Criminal Procedure: Investigation, Criminal Procedure: Adjudication

Law Clerk, Honorable Michael McConnell, Tenth Circuit Court of Appeals (2008-09)
Law Clerk, Honorable Warren Matthews, Supreme Court of Alaska (2007-08)

Summer Associate, WilmerHale D.C. (2006)
Landlord Tenant Clinic, Yale Law School (Summer-Fall 2005)

EDUCATION

Yale Law School, New Haven, CT.

J.D., 2007
Editor & Senior Editor, *Yale Law Journal* (2005-2007)
Submissions chair, *Yale Journal of Health Policy, Law, and Ethics* (2006-2007)
Teaching fellow for Shelly Kagan (philosophy)
Research assistant for Jules Coleman, John Gardner, William Eskridge, Anthony Kronman.

University of Chicago, Chicago, IL.

M.A., Ph.D. in Philosophy, 2004
Dissertation, “Responsibility and Objectivity.”
Committee: Charles Larmore, Martha Nussbaum (chairs), Dan Brudney (reader)
Teaching assistant for Professors Alan Gewirth, Charles Larmore, Jacqueline Bhabha.
Research assistant for Martha Nussbaum, Jean-Luc Marion.

Hillsdale College, Hillsdale, MI.

B.A., *summa cum laude*, in Philosophy (with honors) and Classics, 1997 (second in class)

PUBLICATIONS

Books

THE RISE OF CORPORATE RELIGIOUS LIBERTY (with Micah Schwartzman and Zoe Robinson, eds.) (Oxford University Press, 2016).

THE NEW PHILOSOPHY OF CRIMINAL LAW (with Zach Hoskins, eds.) (Rowman and Littlefield, 2015).

Articles, Essays, and Book Chapters

COVID-19, Courts, and the “Realities of Prison Administration” Part II: The Realities of Litigation, 14 ST. LOUIS J. HEALTH L. & POLICY 495 (2021).

What is Wrong with Mass Incarceration? in THE ROUTLEDGE HANDBOOK OF THE PHILOSOPHY & SCIENCE OF PUNISHMENT (Bruce Waller, Farah Focquaert & Elizabeth M. Shaw, eds., 2021).

The Puzzling Persistence of Citizen’s Arrest Laws, and the Need to Revisit Them (with Raina Brooks, Jack Compton, & Lyz Riley) 64 HOWARD L.J. 161 (2020).

Progressive Prosecution in a Pandemic (with Stephen Galoob), 110 J. CRIMINAL L. & CRIMINOLOGY 685 (2020).

Introduction & co-editor (with Scott Berman), RES PHILOSOPHICA (Apr. 2020) (on “Mass Incarceration and Racial Justice”)

Collins and the Invention of Curtilage, 22 PENN. J. CON. LAW (2020).

Whose Conscience? Which Complicity? Reconciling Burdens and Interests in the Law of Religious Liberty (with Sean Oliveira) in LAW AND RELIGION IN THE LIBERAL STATE (Jahid Hossain Bhuiyan & Darryn Jensen, eds., 2020).

Criminal Justice and the Liberal Good of Order, 70:1 U. TORONTO L. REV. 102 (2020).

Political Philosophy and Punishment, in THE PALGRAVE HANDBOOK OF APPLIED ETHICS & THE CRIMINAL LAW (Larry Alexander & Kim Ferzan, eds., 2019).

Actual and Constructive Possession in Alaska: Clarifying the Doctrine, 36 ALASKA L. REV. 1 (2019).

What Makes the Death Penalty Arbitrary (and Does It Matter If It Is)? 2019 WISC. L. REV. 55

Dangerous Instruments: A Case Study in Overcriminalization (with Desiree Austin-Holliday), 83 MO. L. REV. 259 (2018).

Insubstantial Burdens, in RELIGIOUS EXEMPTIONS (Kevin Vallier, ed., 2017).

Punishment, Liberalism, and Public Reason, 36 CRIM. J. ETHICS 61 (2017).

Voter Ignorance and Deliberative Democracy, ETHICS IN POLITICS (Emily Crookston, David Killoren, Jonathan Trerise, eds., 2016)

Time, Death, and Retribution, 19 PENN. J. CON. LAW 431 (2016).

Criminals Behind the Veil: Political Philosophy and Punishment, 31 BYU J. PUB. L. 83 (2016).

Police Use of Deadly Force: State Statutes 30 Years after Garner, 25 ST. LOUIS PUB. L. REV. 109 (2016) (with Joseph Welling).

Ferguson and the First Amendment, in FERGUSON FAULT LINES (Kim Norwood, ed., 2016)

Public Reason and Public Wrongs, 55 DIALOGUE 45 (2016).

Adam Smith's Jurisprudence: Resentment, Punishment, and Justice in ADAM SMITH: HIS LIFE, HIS THOUGHT, HIS LEGACY (Ryan Hanley ed., (2016).

Religious Organizations and the Analogy to Political Parties in THE RISE OF CORPORATE RELIGIOUS LIBERTY (Micah Schwartzman, Chad Flanders, and Zoe Robinson, eds., 2016).

Teaching "Ferguson," 65 J. LEGAL EDUC. 312 (2015).

The Supreme Court and the Rehabilitative Ideal, 49 GEORGIA L. REV. 383 (2015)

Quoted in *Cook v. State*, 282 So. 3d 760, 763 (Miss. Ct. App. 2019) (Westbrooks, J., concurring)

Quoted in *State v. Majors*, No. 18-0563, 2020 WL 1069503, at *32 (Iowa Mar. 6, 2020)

Animal Rights and Public Reason, POLITICAL ANIMALS/ANIMAL POLITICS (M.L.J. Wissenburg, David Schlosberg, eds., 2014).

Can Retributivism Be Saved?, 2014 B.Y.U. L. REV. 309 (2014).

What is the Value of Participation?, 66 OKLA. L. REV. 53 (2013).

Pardons and the Theory of the "Second Best," 65 FLA. L. REV. 1559 (2013).

The Case Against the Case Against the Death Penalty, 16 NEW CRIM. L. REV. 595 (2013).

Quoted in Brief Of Amici Curiae Alabama And Montana In Support Of Respondent, *Hurst v. State of Florida*, 2015 WL 4747983, at *16 (August 5, 2015) .

In Defense of Punishment Theory, and Contra Stephen, 10 OHIO ST. J. CRIM. L. 243 (2012).

Election Law Behind a Veil of Ignorance, 64 FLA L. REV. 1369 (2012).

Hume's Death and Smith's Philosophy in NEW ESSAYS IN ADAM SMITH'S MORAL PHILOSOPHY (2012).

Cost as a Sentencing Factor: Missouri's Experiment, 77 MO. L. REV. 391 (2012).

The Mutability of Public Reason, 25 RATIO JURIS 180 (2012).

What Do We Want in a Presidential Primary? An Election Law Perspective, 44 U. MICH. J. L. REFORM 901 (2011).

How Do You Spell M-U-R-K-O-W-S-K-I? Part I: The Question of Voter Assistance, 28 ALASKA L. REV. 1 (2011).

Cited in Amici Curiae Brief of the Alaska Federation of Natives, Alaska Native Voters and Tribes in Support of Respondents, *Shelby County, Alabama v. Holder*, 2013 WL 476708, at *31 (Feb. 1, 2013).

The One State Solution to Teaching Criminal Law, or Leaving the Common Law and the MPC Behind, 8 OHIO ST. J. CRIM. L. 167 (2010).

Retribution and Reform, 70 MD. L. REV. 87 (2010).

Bentham on Stilts: The Bare Relevance of Subjectivity to Retributive Justice (with Dan Markel), 98 CAL. L. REV. 907 (2010).

Toward a Theory of Persuasive Authority, 62 OKLA. L. REV. 55 (2009).

Cited in GREG ABBOTT, in his official capacity as Governor of Texas, Appellant, v. CITY OF EL PASO, Appellee., No. 08-21-00149-CV, 2021 WL 5903927 (Tex. App. Sept. 30, 2021) (Alley, J., concurring statement).

Reprinted in BRADLEY SHANNON, AMERICAN LEGAL PROCESS 262-274 (2015).

The Possibility of a Secular First Amendment, 26 QUINNIPIAC L. REV. 257 (2008).

How (and Why) to Think About Voter Fraud, 41 CREIGHTON L. REV. 93 (2007).
Cited in SAMUEL ISSACHAROFF ET AL. THE LAW OF DEMOCRACY 25 (2008 & 2010 supplements).

Deliberative Dilemmas: A Critique of Deliberation Day from the Perspective of Election Law, 23 J. LAW & POL. 147 (2007).

Comment, *Bush v. Gore and the Uses of “Limiting,”* 116 YALE L.J. 1159 (2007)
Quoted in *U.S. v. Dayton*, 426 Fed.Appx. 582, 587 (10th Cir., Apr 4, 2011)
Cited in *Herbert v. U.S.*, 2007 WL 3020494, at *4 (D.S.C. Oct 12, 2007)
Cited in DANIEL LOWENSTEIN ET. AL., ELECTION LAW: CASES AND MATERIALS 306 (2008)
Quoted in *State ex rel. League of Women Voters v. Herrera*, 203 P.3d. 94, 98 (N.M. 2009).

Shame and the Meanings of Punishment, 54 CLEV. ST. L. REV. 609 (2006)
‘This Irregularity of Sentiment’: Adam Smith on Moral Luck, NEW VOICES ON ADAM SMITH (Eric Schliesser and Leonidas Montes, eds., 2006).

Preface & co-editor (with Martha Nussbaum), PHILOSOPHICAL TOPICS (Fall 2002) (on “Global Inequalities”).

Contributions to Symposia and Online Publications

Alaskan Exceptionalism in Campaign Finance, 37 ALASKA L. REV. 191 (2021).

“Terroristic Threats” and COVID-19: A Guide for the Perplexed, 169 PENN L.J ONLINE 63 (2020) (with Courtney Federico, Eric Harmon, and Lucas Klein).

Do Prisoners Have a Right to Soap? NULR OF NOTE (June 24, 2020)

Was the 2016 Election Legitimate? 64 ST. LOUIS L.J. 635 (2020)

The Fourth Amendment of “Things”: Comment on Tokson (with Ashlyn Dowd), 59 WASHBURN L. REV. 87 (2020).

An Incomplete “Masterpiece,” 66 UCLA L. REV. DISC. 154 (2019) (with Sean Oliveira).

Are Universities Schools? The Case for Continuity in School Speech, 93 NYU L. REV. ONLINE 137 (October 2018).

In (Partial) Praise of (Some) Compromise: Comments on Tebbe, 31 J. CIV. RTS. & ECON. DEV. (2018).

A Half-Hearted Defense of the Categorical Approach, 95 WASH. U. L.R. 1389 (2018).

Keeping the Rule of Law Simple: Comments on Gowder, *The Rule of Law in the Real World*, 62 ST. LOUIS L. REV. 313 (2018).

How Much Certainty Do We Need to Punish? A Reply to Kolber. 2018 U. ILL. L. ONLINE 149.

Is Having Too Many Aggravating Factors the Same as Having None at All? A Comment on the Hidalgo Cert. Petition, UC DAVIS L. REV. ONLINE (October 17, 2017).

The Stockley Verdict: An Explainer, ST. LOUIS U. LAW REV. ONLINE (September 15, 2017)

Substantial Confusion about Substantial Burdens, 2016 U. ILL. L. ONLINE 28.

Interviews Before Execution and the Modern Chinese Death Penalty (with Yiqing Wang), 37 FORDHAM INTL. L. REV. ONLINE 3 (2014).

Bridges and Ballots: Comments on Levinson, 58 ST. LOUIS L. REV. 1097 (2014).

The Trumpet Player’s Lament: Reconceptualizing Civil Gideon (with Alex Muntges) 17 U.D.C. L. REV. 28 (2014).

Can We Please Stop Talking About Neutrality? Koppelman Between Scalia and Rawls, 39 PEPPERDINE L. REV. 1139 (2013).
The Mind as a Whole, 7 ADAM SMITH REV. (2012).
Cost and Sentencing: Some Pragmatic and Institutional Doubts, 24 FED. SENT. R. 164 (2012).
Election Law: Too Big to Fail? 56 ST. LOUIS L. J. 775 (2012).
Guilty Bystanders, 19 YALE J. LAW & FEM. 291 (2007).
Please Don't Cite This Case!: The Precedential Value of Bush v. Gore, 116 YALE L.J. POCKET PART 141 (2006).
Discussed by Orin Kerr, Does Bush v. Gore Have Precedential Value? THE VOLOKH CONSPIRACY (November 20, 2006), <http://volokh.com/posts/1164087982.shtml>.
Quoted in Morgan v. Bank of New York Mellon, No. 1D15-2401, 2016 WL 4987660, at *4 (Fla. Dist. Ct. App. Sept. 19, 2016) (Makar, J., dissenting)

Responses

Further Reflections on the Pardoning Power: Reply to Hoskins and Drinan, 65 FL. L. REV. FORUM 51 (2014).
More on Veils: A Reply to Muller and Levitt, 65 FL. L. REV. FORUM 1 (2013).
Spelling Murkowski: The Next Act, Reply to Fishkin and Levitt, 28 ALASKA L. REV. 49 (2011).
Beyond Raw Experience: Getting Retributive Justice Right, 99 CAL. L. REV. 605 (2011) (with Dan Markel and David Gray).
Can Retributivism Be Progressive? A Reply to Gray and Huber, 70 MD. L. REV. 166 (2010).

Book Reviews

Steven Garvey, *Guilty Acts & Guilty Minds*, CRIMINAL LAW & CRIMINAL JUSTICE BOOK REVIEWS (September 2021).
Michael Tonry, ed., *One-Eyed Monsters and Toothless Miscreants*, 15 CRIMINAL LAW & PHILOSOPHY 515 (2021).
Benjamin Yost, *Against Capital Punishment*, 29 CRIMINAL JUSTICE ETHICS 202 (2020).
Elinor Mason, *Ways to be Blameworthy: Rightness, Wrongness, and Responsibility*, NOTRE DAME PHIL. REV. July 1, 2019).
Rik Sils., ed, *Perspectives on Ignorance from Moral and Social Philosophy* NOTRE DAME PHIL. REV. (April 2, 2017)
Claudio López-Guerra, *Democracy and Disenfranchisement*, NOTRE DAME PHIL. REV. (July 20, 2015)
Brian Leiter, *Why Tolerate Religion?* 56 J. CHURCH & STATE 372 (2014).
Paul Oslinger, ed. *Adam Smith as Theologian*. THE EUROPEAN LEGACY (June 28, 2013).
Michael Zimmerman, *The Immorality of Punishment*. 122 ETHICS 641 (2012).
Douglas Laycock, 2 *Religious Liberty: Free Exercise*, J. CHURCH & STATE 281 (2012).
Jason Brennan, *The Ethics of Voting*. NOTRE DAME PHIL. REV. (Dec. 16, 2011).
Tom L. Beauchamp, *Standing on Principles: Collected Essays*, 32 J. LEGAL MED. 337 (2011).
Douglas Laycock, 1 *Religious Liberty: Overviews and History*, 52 J. CHURCH & STATE 589 (2010)
Steven H. Shiffrin, *The Religious Left and Church-State Relations*, 20 L. & POL. BOOK REV. (2010).

Robert K. Vischer, *Conscience & the Common Good: Reclaiming the Space Between Person and State*, 25 J. L. & RELIGION 567 (2010)

Jonathan Baron, *Against Bioethics*, 31 J. LEGAL MED. 157 (2010).

Dennis C. Rasmussen, *The Problems and Promise of Commercial Society: Adam Smith's Response to Rousseau*, 3 ERASMUS J. POLITICS & ECONOMICS 104 (2010).

Richard Posner, *How Judges Think*, 3 LAW & HUMANITIES 8 (2008).

Noah Feldman, *Divided by God*, 118 ETHICS 147 (2007).

Jürgen Habermas, *The Divided West*, 32 YALE J. INT'L L. 275 (2007).

R. A. Duff, *Punishment, Communication, and Community*, ETHICS (October 2002).

Victoria Davion, ed., *The Idea of a Political Liberalism: Essays on Rawls*, ETHICS (October 2001).

Popular and Shorter Pieces

The Trouble with Coronavirus and Missouri's Jails (with Fred Rottnek) ST. LOUIS POST-DISPATCH (October 28, 2021)

COVID-19 in Missouri Prisons and Jails, MISSOURI APPLESEED (2021) (with Liza Weiss, Finola Prendergast, Megan Hart, Savannah Larimore, Hedwig Lee, Preethi Raja, and Fred Rottnek).

The Lack of Trust in Elections -- and How to Get It Back (with Kevin Vallier) REAL CLEAR POLITICS (Sept 3, 2021)

Voting Absentee in Texas: Disability, COVID-19, and Statutory Interpretation (with Kristen Spina), LEGISLATIVE LAWYER (Spring-Summer 2020)

Defund the police? There is a problem, but the solution we need is to disaggregate the police. DES MOINES REGISTER (June 10, 2020)

Stay at home order isn't religiously biased (with Ana Santos-Rutschman) ST. LOUIS POST-DISPATCH (June 4, 2020)

Texas is the Next Major Battleground over Pandemic Voting Rights (with Kristen Spina) SLATE.COM (April 17, 2020)

Changing the Rules in the Middle of a Pandemic (with Sean Oliveira) ST. LOUIS POST-DISPATCH (April 15, 2020)

Treat Prisoners with Dignity (letter), PITTSBURGH POST-GAZETTE (April 7, 2020)

When Religions Expression Turns to Religious Establishment, ST. LOUIS POST-DISPATCH (Mar. 6, 2018)

The Problem with "Stand Your Ground" Law, ST. LOUIS POST-DISPATCH (Feb. 22, 2018).

How Long is "Life?" ST. LOUIS POST-DISPATCH (August 7, 2017)

Interpreting the New "Stand Your Ground" Rule, J. MISSOURI BAR (January-February 2017)

Two religious liberty cases show Gorsuch to be deliberate, fair, SEATTLE TIMES (February 7, 2017)

More Guns, More Fear (with Desiree Austin-Holliday) ST. LOUIS POST-DISPATCH (September 27, 2016)

Into the weeds, SCOTUSBLOG (May. 16, 2016, 3:04 PM),

Finding Middle Ground on Religious Liberty, ST. LOUIS POST-DISPATCH (May 4, 2016).

Ban use of deadly force to stop fleeing felons (with Joe Welling), ST. LOUIS POST-DISPATCH (Feb. 18, 2016).

Rules for Police Use of Deadly Force (letter) (with Joe Welling) N.Y. TIMES (Jan. 7, 2016)

Oklahoma Frat Case Touches on a Surprisingly Murky Area of Law, CLEVELAND PLAIN-DEALER (Mar. 27, 2015).

Steps to a Sensible Use of Force Law (with Marcia McCormick) ST. LOUIS POST-DISPATCH (Feb. 12, 2015).

The Wilson Case Illustrates Why We Should Change Missouri's Use of Force Law, ST. LOUIS PUBLIC RADIO (November 26, 2014).

Missouri Use of Force Statute Goes Against Constitutional Rulings, ST. LOUIS PUBLIC RADIO (August 25, 2014).

Religious Diversity, Thick and Thin, SCOTUSBLOG (May 6, 2014)

What is the point of prison? ST. LOUIS PUBLIC RADIO (May 6, 2014).

Suddenly, The Death Penalty's All the Rage, ST. LOUIS BEACON (June 5, 2013).

Scalia, "Racial Entitlement," and the Voting Rights Act, PROVIDENCE JOURNAL (Feb. 28, 2013).

"People Just Don't Do That!" Curb Your Enthusiasm and the Virtue of Civility (with David Svobba) in *CURB YOUR ENTHUSIASM AND PHILOSOPHY* (Mark Ralkowski, ed. 2012).

The White Primaries and Bush v. Gore in *OXFORD ENCYCLOPEDIA OF AMERICAN POLITICAL, POLICY, AND LEGAL HISTORY* (2012).

Death Takes a Road Trip in *CHUCK KLOSTERMAN AND PHILOSOPHY* (Seth Vannatta, ed. 2012).

Big Money Didn't Lose, ST. LOUIS BEACON (Nov. 27, 2012).

Pain, Suffering, and the Death Penalty, ST. LOUIS BEACON (August 28, 2012).

Of Castles, Cars, Road Rage, and Guns, ST. LOUIS BEACON (June 15, 2012).

Don't Ditch the Caucus System (with Christopher Jones), ST. LOUIS POST-DISPATCH (Mar. 21, 2012).

Religious Liberty and the Contraceptives Debate, JURIST (Mar. 19, 2012).

Super PACS Unleash Politics of the Weird, POLITICO (Mar. 7, 2012).

Missouri's Pointless, Expensive, "Beauty Pageant," ST. LOUIS BEACON (Jan. 21, 2012).

Prison Bills Come Due, ST. LOUIS BEACON (November 16, 2011)

Facebook, Teachers, and the Law, ST. LOUIS BEACON (August 22, 2011).

Voter ID: Still Wrong After All These Years (with Jamie Rodriguez), ST. LOUIS BEACON (April 18, 2011).

Ranking the Rankings: The Best Law School for You, THE NATIONAL JURIST (online edition) (March 29, 2011).

When is a home not a home? MO. LAWYERS WEEKLY 21 (Feb. 14, 2011).

The Death Penalty's Slow Death, ST. LOUIS BEACON (Jan. 31, 2011).

'Controlled by a Creed?' CONVERSATIONS ON JESUIT HIGHER EDUCATION: Vol. 39, Article 9 (Jan. 2011).

The Future for Juveniles Denied Parole, ST. LOUIS POST-DISPATCH (Dec. 29, 2010).

Missouri's Strange New Self-Defense Law (with Sarah Pohlman), ST. LOUIS POST-DISPATCH (October 12, 2010).

The Cost of Justice, ST. LOUIS BEACON (September 17, 2010).

Reprinted in 12 SAINT LOUIS BRIEF 21 (2011).

Local Knowledge Lost with Uniform Bar, MISSOURI LAWYERS WEEKLY 14 (May 23, 2010).

A Third Way of Selecting Judges (with Grant Gaumer), ST. LOUIS POST-DISPATCH (May 12, 2010)

Teaching State Criminal Law to 1Ls, THE LAW TEACHER (Spring 2010).

We Should Not Elect Judges (with Matt Hall) ST. LOUIS BEACON (Feb. 16, 2010).
Sex offenders: Lock 'em up and Throw Away the Key? ST. LOUIS BEACON (January 19, 2010).
Let's take action on the need for ethics instruction, THE NATIONAL JURIST (January 2010).
Bringing back the guillotine? ST. LOUIS BEACON (September 22, 2009).
When is something morally offensive a crime? ST. LOUIS BEACON (August 24, 2009).
Look What You Missed by Googling, CHICAGO TRIBUNE (August 9, 2009).
Sotomayor and the Art of the Judicial Deal, ST. LOUIS POST-DISPATCH (July 15, 2009).
Political Process Worked – This Time, Anyway (with Michael Neblo), MILWAUKEE J.-SENTINEL (April 27, 2008).
Why Make it Hard to Vote? (with Michael Neblo), MILWAUKEE J.-SENTINEL (Jan. 13, 2008).
Standing Above the Law (with Robert Wiygul), SAN FRANCISCO CHRON. (July 12, 2007).
Defusing Primary Primacy, HARTFORD COURANT (April 13, 2007).

Occasional reviewer for *inyourspeakers.com* (2010-11) (author of over 30 reviews) and for *Delusions of Adequacy* (2011-13) (author of 17 reviews), both independent music blogs.

Amicus briefs (primary author)

Brief for law professors in *State v. Smith*, No. SC 99086, 2022 WL 105131 (Mo. Jan. 11, 2022).

In Progress

“Cruel and Unusual Punishment”
Disenfranchisement Due to Crime (in Comparative Perspective)
Strawson and the Buddha on “Persons”
Deliberative Democracy and Election Law: The Case for Incrementalism
Does Punishment Require Suffering?

TALKS & PRESENTATIONS

American Criminal Law: Crimes and Elements, guest lecture to criminal law class at Nanjing University (presented remotely), December 5, 2021.
The Insanity Defense, guest lecture to class on “Psychology and Law,” Hopkins-Nanjing Center, Nanjing, China (presented remotely), December 16, 2020.
Alaska Exceptionalism in Election Law, Alaska Law Review symposium (presented remotely), October 30, 2020.
Changing Conceptions of Property Crimes, talk to criminal law class at Nanjing University (presented remotely), October 13, 2020.
What is Qualified Immunity? SLU Law Instagram Live Discussion, June 10, 2020.
Of Crosses and Cakes: Religious Liberty in Missouri and the United States, St. Charles Public Library, St. Charles, MO., Nov. 12, 2019.
A Progressive Prosecutor's Scorecard, ABA-AALS Criminal Law Workshop, Washington D.C. Nov. 7, 2019.

Comments on Richard Dagger, Playing Fair: Political Obligation and the Problems of Punishment, Law and Society Association Annual Meeting, May 31, 2019.

The American Legal System: Current Controversies, Enduring Principles, Nanjing University School of Law, Nanjing, China, March 13, 2019; Hohai University School of Law, Nanjing, China, March 14, 2019.

The Legitimacy of the 2016 Election, Fudan University, Shanghai, China, March 13, 2019; Hopkins-Nanjing Center, Nanjing, China, March 14, 2019; Childress Lecture Symposium, Saint Louis University School of Law, Oct. 11, 2019.

Are Universities Schools? Loyola University Constitutional Law Colloquium, Chicago, IL., November 2, 2018.

Freedom of the Religion and the Constitution, Presentation to AP Government Teachers, Thomas Eagleton Courthouse, St. Louis, MO., July 10, 2018.

Supreme Court: Review and Session Predictions. Southeastern Division Bench and Bar Conference, U.S. District Courthouse, Cape Girardeau, Missouri, May 3, 2018; Northern Division Bench and Bar Conference, U.S. District Courthouse, Hannibal, June 15, 2018.

A Half-Hearted Defense of the Categorical Approach, Conference on Greg Magarian's *Managed Speech*, Washington University School of Law, Jan. 19, 2018.

Political Philosophy as if Punishment Mattered, Washington University Workshop on Politics, Ethics, and Society, Oct. 27, 2017; Northwestern Law School, Criminal Law Workshop, June 21, 2018.

Panel: Questions about Law School, SLU Pre-law Program, October 26, 2017.

Is the Death Penalty Arbitrary? (And Does It Matter If It Is?), Central States Law School Association Conference, Southern Illinois University, Oct. 7, 2017; National Conference of Constitutional Law Scholars, University of Arizona School of Law, March 17, 2018; CrimFest!, Cardozo Law School, July 17, 2018; Federalist Society Annual Meeting, New Orleans, January 3, 2019.

Comments on Duff & Marshall, Criminal Law & Epistemology, University of Nottingham, June 19, 2017.

Political Liberalism and Punishment, Northwestern Criminal Theory Gathering, Northwestern University School of Law, May 10, 2017

Modesty and Skepticism about Proportionality, University of Minnesota School of Law, April 29, 2017

Overcriminalization and the "Hard" Problem of Mass Incarceration, Conference on Overcriminalization, Georgia State University, April 7, 2017.

Trump Versus the Constitution, Nanjing University, Nanjing, China, March 15-16.

Debate: Is the Death Penalty Morally Permissible? (with Thomas Simon), Hopkins-Nanjing Center, Nanjing, China, March 15, 2017.

Comments on Paul Gowder, The Rule of Law in the Real World, Book Roundtable, Central Division Meeting of the American Philosophical Association, Kansas City, MO., March 3, 2017.

Strawson and Buddha on the Nature of Persons, Central Division Meeting of the American Philosophical Association, Kansas City, MO., March 3, 2017.

Debate: Does Self-Interest Explain All Human Behavior? (with Scott Berman), Eastern Reception, Diagnostic and Correctional Center (Bonne Terre, MO), Dec. 5, 2016.

Ferguson and the First Amendment, Panel discussion on *Ferguson Faultlines*, Washington University, November 29, 2016.

Accommodation and Compromise: Turning Hard Cases into Easier Ones, Lincoln University (Jefferson City, MO.), October 22, 2016

In (Partial) Praise of (Some) Compromise, Book Roundtable on “Religious Liberty in an Egalitarian Age” by Nelson Tebbe, St. John’s University School of Law, September, 16, 2016

Punishment and Public Reason, Punishment: East and West, Chinese University of Hong Kong, August 29, 2016

Insubstantial Burdens, Annual Law and Religion Roundtable, McGill University, June 20, 2016.

Little Sisters—Before and After, Judicial Clerkship Conference, St. Louis, MO., June 17, 2016.

The Supreme Court’s Current Term: Reflections and Predictions, Bench and Bar Conference, U.S. District Court Seminar, Cape Girardeau, Missouri, April 22, 2016.

The Supreme Court and Religious Liberty, Mini Missouri Law School talk, April 20, 2016.

Deliberative Democracy and Election Law, Conference on “Deliberative Constitutionalism,” McGill University School of Law, April 24, 2016.

Whose Conscience? Which Complicity?, Pepperdine Law and Religion Annual Conference (“Doing Justice and Doing Harm”), March 11, 2016.

Time, Death, and Retribution, New Voices in Legal Theory Roundtable, Loyola University-New Orleans, Feb. 26-27, 2016.

What is Religious Freedom? Talk to the J. Reuben Clark Law Society, Saint Louis University School of Law, November 19, 2015.

Criminals Behind the Veil: Rawls on Punishment, Criminal Theory Conference, University of Michigan Law School, Nov. 14, 2015.

The United States Supreme Court: Recent Cases, Missouri Bar Association Annual Meeting, Oct. 7, 2015.

Voter Ignorance and Democratic Legitimacy, Vanderbilt Social and Political Theory Workshop, Sept. 17, 2015; Washington University Workshop in Politics, Ethics, and Society, Oct. 9, 2015.

Insubstantial Burdens. Bowling Green State University Social and Political Philosophy Conference, April 17, 2015; Federalist Society Workshop, Washington University School of Law, August 28, 2015.

Police Officer’s Use of Force (Mostly Deadly), Public Lecture, Missouri Mini Law School, April 1, 2015.

Religious Organizations and the Analogy to Political Parties, Washington University Junior Faculty Workshop, Feb. 27, 2015

Comments on “Rethinking Plea Bargaining,” Robina Institute Conference, “The Future of Criminal Law,” University of Minnesota Law School, April 25, 2014

The Case Behind “Orange is the New Black,” DePaul “Pop Law” Lecture Series, April 15, 2014

Moderator and Chair, Roundtable on Joey Fishkin, *Bottlenecks: A New Theory of Equal Opportunity*, Midwest Political Science Association Annual Meeting, April 5, 2014

The American Constitution: Key Cases, China Youth University of Political Science, March 28, 2014.

The Supreme Court and the Rehabilitative Ideal, St. Louis University Faculty Workshop, Feb. 19, 2014; Federalist Society Workshop, Washington University School of Law, July 2, 2014.

Public Reason and Public Wrongs, American Philosophical Association Annual Meeting, Baltimore, MD., Dec. 28, 2013.

Comments on Sanford Levinson, Childress Lecture Symposium, St. Louis University Law School, Nov. 1, 2013.

The Epistemology of Evolving Standards, Federalist Society Faculty Workshop, Washington University School of Law, Oct. 25, 2013; SMU-Dedman School of Law, Jan. 24, 2014; Chicago Junior Faculty Workshop, Hyde Park, Feb. 8, 2014.

The Fourth Amendment and Drug Sniffing Dogs, Drug Sniffing Dogs Panel, DePaul University Law School, Oct. 2, 2013.

Co-organizer and commenter, The New Religious Institutionalism, DePaul University Law School, Sept. 26-27, 2013.

Remarks, Forum on Globalization and Legal Education, Beijing Foreign Studies University, May 29, 2013.

The Death Penalty: The Leading Arguments and The Supreme Court: Recent Cases, Xinjiang Normal University (Urumqi, China), May 16-17, 2013.

The Supreme Court and American Criminal Law and The Death Penalty: Pro and Con, Shanghai International Studies University, May 6-7, 2013.

Is The Death Penalty Civilized? and Adam Smith and Religion, Zhejiang University (Hangzhou), April 25, 2013.

The Death Penalty: Reform It or Abolish It? and A Conversation on the Constitution, Dalian Maritime University School of Law, April 18-19, 2013.

The People and the Constitution and Elections and the Value of Participation, Beijing Foreign Studies University, April 11-12, 2013.

The People and the Constitution, Central University of Finance and Economics (Beijing), April 10, 2013.

How Retribution Fails, DePaul University School of Law, February 14, 2013; *Chicago Area Junior Faculty Workshop*, Aug. 13, 2013.

The Court and the Constitution and Why Have Elections? Nankai University School of Law (Tianjin), December 6-7, 2012.

Why Have Elections? and The Death Penalty: What Would You Decide? Central University of Finance and Economics (Beijing), December 5-6, 2012.

The American Election: What Just Happened? and The Supreme Court and Judicial Review, Shanghai University of Finance and Economics (Shanghai), November 21-22, 2012.

American Legal Education: An Overview, The Supreme Court's Recent Term (2011-2012) and The Death Penalty: A Review of the Major Arguments, Beijing University of Chemical Technology (Beijing), November 7-9, 2012.

Remarks, Panel on Law and Law Schools, Hopkins-Nanjing Center, Nanjing, China, October 18, 2012.

Veil of Ignorance Rules in Election Law, Federalist Society Junior Scholars Colloquium, June 2, 2012.

Haley Barbour's Pardons, Washington University School of Law Junior Faculty Workshop, May 11, 2012.

Comment on "The Prosecutor and the Presumption of Innocence," Presumption of Innocence Conference, Robina Institute, University of Minnesota Law School, May 4, 2012.

Reply to Koppelman, Third Annual Religious Theory Conference, Pepperdine University School of Law, Feb. 24, 2012.

Comment on "Public Health and Security," American Philosophical Association, Central Division Meeting, Feb. 18, 2012.

Beyond a Reasonable Doubt? The Substantive Criminal Law, Public Lecture, Mini Missouri Law School, Nov. 2, 2011.

In Defense of Punishment Theory, N.Y.U. Criminal Law Theory Workshop, October 25, 2011.

Two Papers on Public Reason, Law and Philosophy Workshop, University of Texas Law School, Sept. 22, 2011.

Public Reason and Animal Rights, Washington University Political Theory Workshop, Sept. 9, 2011; European Consortium on Political Research, Joint Session, University of Antwerp, April 14, 2012.

The Costs of Sentencing, Southeastern Association of Law Schools Conference, July 27, 2011; St. Louis University School of Law, Half-Baked Workshop, August 17, 2011; DePaul University Law School, Sept. 20, 2011; Indiana University-Indianapolis School of Law, October 6, 2011.

Punishment and Political Philosophy: The Case of John Rawls, Minnesota State University Philosophy Department, April 14, 2011.

How Do You Spell "Murkowski"? Duke Law School, April 11, 2011.

The Mind as a Whole: Comments on Fraser, Midwest Political Science Association Conference, Chicago, IL. March 31, 2011

The First Amendment: Recent Debates and Controversies, Public Lecture, Mini Missouri Law School, March 16, 2011

The Impact of Citizens United, Debate with Herbert Von Spakovsky, September 29, 2010, Saint Louis University School of Law..

Making Your Vote Count: Election Law in Missouri, Public Lecture, Mini Missouri Law School, September 22, 2010.

Public Reason as Idea and Ideal, Canadian Political Theory Association Annual Meeting, June 4, 2010.

The Mutability of Public Reason, Washington University Political Theory Workshop, April 9, 2010; Saint Louis University School of Law Philosophy and Law Roundtable, April 23, 2010; Religion and Law Roundtable, Brooklyn Law School, June 24, 2010.

The One State Solution to Teaching Criminal Law, Law and Society Association Annual Meeting, May 27, 2010

Is Subjectivity Relevant to Retributive Justice? Central States Law School Conference, Capital Law School, October 24, 2009.

PROFESSIONAL MEMBERSHIPS AND SERVICE

Missouri Bar (active)

Alaska Bar (active)

10th Circuit Court of Appeals Bar

American Philosophical Association (past member)

Midwest Political Science Association (past member)

Missouri Advisory Committee, U.S. Commission on Civil Rights (2015-2021; interim chair, 2021)

REFEREE

New Criminal Law Review; Mind; Ethics; Law and Philosophy; Constellations; International Criminal Law Review; Criminal Law and Philosophy, Criminal Justice Ethics, Journal of Moral Philosophy; American Journal of Political Science; Yale Law Journal

MEDIA APPEARANCES (SELECTED)

No 'sick days' for Constitutional rights, (Missouri Independent, Jan. 12, 2022); *Why telling a cop you have Covid in New Jersey could get you 10 years in prison* (The Guardian, Nov. 5, 2021); *Missouri Supreme Court ponders rape case that alleges Zoom testimony is unconstitutional* (St. Louis Record, Sept. 27, 2021); *Judges Consider Whether Zoom Testimony is 'Face-to-Face' Confrontation*, (Missouri Lawyers Weekly, Sept. 21, 2021); *Missouri Supreme Court to decide if remote testimony protects constitutional rights* (Missouri Independent, July 9, 2021); *"Please take a moment to thank Jehovah": Churches distributing USDA food boxes are blurring the line between church and state* (The Counter, Sept. 29, 2020); *How Hare Krishnas led to the 'Free Speech Booth' at St. Louis Airport* (St. Louis Post-Dispatch, Feb. 17, 2020); *Should Judges Have to Weigh the Price Tag of Sending Someone to Prison?* (Mother Jones, Jan. 8, 2020); *GOP lawmaker wants "In God We Trust" displayed in public schools* (Springfield News-Leader, May 2, 2019); *Hawley's inquiry of Greitens questions whether social media should be in the sunshine* (St. Louis Public Radio, May 7, 2018); *Free-speech implications of case involving St. Louisian's artwork removed from U.S. Capitol* (St. Louis on the Air, April 27, 2018); *Will the Supreme Court Kill the Death Penalty This Term?* (Bloomberg Law, November 21, 2017); *SCOTUS Cake Case Is Ongoing Battle Between Religious Freedom And Discrimination* (KJZZ Phoenix, Nov. 1, 2017); *The Jason Stockley Verdict, Explained*, St. Louis Magazine (Sept. 18, 2017); *Greitens instructs DNR to consider religious organizations for grants* (St. Louis Post-Dispatch, April 14, 2017); *With deliberations in sight, Michael Slager trial could hinge on judge's instructions for jury* (Charleston Post & Courier, November 28, 2016); *Cops Who Kill, On Trial* (Slate, November 11, 2016); *Here's Why Reforming Presidential Primaries Won't Matter* (cnbc.com, June 9, 2016); *Senate Passes New Use of Force Laws for Missouri Police* (St. Louis Post Dispatch, April 14, 2016); *Was St. Louis homeowner's decision to shoot at boys rifling through car – killing one – reasonable?*(St. Louis Post Dispatch, Dec. 7, 2015); *Flawed Bills Won't Fix Confusion Over Deadly Force*, (St. Louis Public Radio, Feb. 8, 2015); *Grand Juror Doe May Have a Case, Experts Say*, (St. Louis Public Radio, Jan. 6, 2015); *Grand Jury Wrangled With Confusing Instructions*, (St. Louis Public Radio, Nov. 26, 2014); *Now What? After Zimmerman's Acquittal, Few Legal Options* (St. Louis Beacon, July 15, 2013); *Insight on Scalia's "Racial Entitlement" Remark*, (The Maddow Blog, March 6, 2013); *The Voter ID Conversation*, National Review Blog (July 25, 2012); *Free Speech, Facebook, and a Public University* (St. Louis Beacon, Nov. 3, 2011); *New Missouri 'Facebook Bill': Let school districts make their own rules* (Christian Science Monitor, Sept. 8, 2011); *Can Facebook get teachers fired?* (Christian Science Monitor, Aug. 23, 2011); *Analysis: Roberts court displays robust support of free speech, especially for monied interests* (St. Louis Beacon, June 29, 2011); *Analysis: Funeral Protests are Protected Speech* (St. Louis Beacon, March 6, 2011); *Chunks out of the wall separating church*

and state (St. Louis Beacon, April 30, 2010); *Bush v. Gore Set to Outlast Its Beneficiary* (N.Y. Times, Dec. 23, 2008).

AWARDS

Faculty excellence award (2016)

Faculty member of the year (law school) (2016, 2021)

Thompson Coburn Article award (2021)