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FACULTY WEBPAGE: http://law.wustl.edu/faculty_profiles/profiles.aspx?id=10752

SSRN: <https://ssrn.com/author=462731>

FIRST MONDAYS: <http://www.firstmondays.fm>

Academic appointments

- 2016– **Washington University in St. Louis**
Associate Professor of Law
- 2013–2016 **Harvard Law School**
Climenko Fellow & Lecturer on Law
- Fall 2012 **University of Virginia School of Law**
Lecturer (part-time)

Research & teaching interests

criminal law & procedure • constitutional law & public law theory • federal courts

Education

- 2008 **J.D. *magna cum laude***
Harvard Law School
Harvard Law Review, Articles Co-Chair
John M. Olin Law & Economics Prize
- 2004 **A.B. in Philosophy *summa cum laude***
Duke University
Highest Distinction in Philosophy
Phi Beta Kappa

Scholarship

ARTICLES & ESSAYS

Harmless Errors and Substantial Rights

131 HARVARD LAW REVIEW __ (forthcoming June 2018)

The Lottery Docket

116 MICHIGAN LAW REVIEW 705–757 (2018) (with William Ortman)

Reviewed in Marin K. Levy, *Redesigning the Cert Process*, JOTWELL (Feb. 9, 2018)

Adversarial Asymmetry in the Criminal Process

91 NYU LAW REVIEW 762–854 (2016)

The Consequences of Error in Criminal Justice

128 HARVARD LAW REVIEW 1065–1151 (2015)

SHORTER PIECES & SOLICITED CONTRIBUTIONS

Foreword: Criminal Procedure at Dusk

51 LOYOLA OF LOS ANGELES LAW REVIEW __ (forthcoming 2018) (invited contribution)

One Last Word on the Blackstone Principle

101 VIRGINIA LAW REVIEW ONLINE 34–47 (2016)

Bailey v. United States: Another Win for that “Doggone Fourth Amendment”

2012–2013 CATO SUPREME COURT REVIEW 187–214 (2013) (invited contribution)

Note, *Mechanisms of Secrecy*

121 HARVARD LAW REVIEW 1556–77 (2008)

Case Comment, *Bell Atlantic Corp. v. Twombly*

120 HARVARD LAW REVIEW 305–15 (2007)

Recent Case, *Harper v. Poway Unified School District*

120 HARVARD LAW REVIEW 1691–98 (2007)

WORKS IN PROGRESS

“Rethinking Separated Criminal Powers”

“Justifying the Fourth Amendment”

“The Informed Jury”

COMMENTARY

Co-Host, *First Mondays* (2016–present)

Quorums and conflicts of interest on the Supreme Court, SCOTUSBLOG (May 7, 2018)

Police Officers Are Bypassing Juries to Face Judges, WASHINGTON POST (Sept. 21, 2017)

Contributor, *An Annotated Constitution*, NEW YORK TIMES MAGAZINE (July 2, 2017) (print)

edition) (comment on Article III Jury Clause)

The Audacity of The President's "Hope", TAKE CARE (June 13, 2017) (with Leah Litman)

Mootness and Munsingwear in the Travel Ban Litigation, TAKE CARE (June 6, 2017)

Contributor, *PrawfsBlawg—Supreme Court 2016 Term Symposium* (June 2017)

Government Workers Can Ignore Trump's Immigration Order—And We'll Defend Them
BOSTON GLOBE (Feb. 4, 2017) (with Leah Litman & Ian Samuel)

Justice Kennedy's Extraordinary Solo Opinion on Solitary Confinement
CASETEXT (June 20, 2015)

What the 'Bailey' Case May Reveal About Supreme Court Ideology
THE ATLANTIC (Oct. 31, 2012)

In Health Care Ruling, Roberts Steals a Move from John Marshall's Playbook
THE ATLANTIC (June 28, 2012)

Judicial clerkships

2009–2010 **Supreme Court of the United States**
Chambers of Justice Anthony M. Kennedy
Law clerk

2008–2009 **United States Court of Appeals for the Fourth Circuit**
Chambers of Judge J. Harvie Wilkinson III
Law clerk

Other experience

2010–2013 **King & Spalding LLP**
Washington, DC
Associate, National Appellate Litigation Practice
Notable cases included successful certiorari petition and merits briefing in *Walden v. Fiore*, 133 S. Ct. 1493 (2014); brief for Court-appointed amicus curiae in *Millbrook v. United States*, 133 S. Ct. 1441 (2013); and successful merits briefing in *Brady v. National Football League*, 644 F.3d 661 (8th Cir. 2011). Drafted 28 U.S.C. § 2255 motion to vacate federal mail- and wire-fraud convictions which resulted in numerous counts of conviction being overturned. Provided strategic counseling on corporate white-collar criminal matters.

Summer 2007 **Mayer, Brown, Rowe & Maw LLP**
New York, NY
Law Clerk, Supreme Court & Appellate Practice Group

Summer 2006 **Harvard Law School**
Summer Academic Fellow

Summer 2005 **The Daily Star**
Beirut, Lebanon
Intern Reporter

Spring 2005 **Eugene Weekly**
Eugene, OR
Intern Reporter

Fall 2004 **Kerry-Edwards 2004/North Carolina Democratic Victory 2004**
Raleigh, NC
Press Assistant

Pro bono representation

Ocasio v. United States

136 S. Ct. 1423 (2016)

Served as co-counsel for defendant Samuel Ocasio in Supreme Court merits case involving the scope of conspiracy liability for extortion under the Hobbs Act, 18 U.S.C. § 1951. Previously served as counsel in appeal to the U.S. Court of Appeals for the Fourth Circuit, *United States v. Ocasio*, 750 F.3d 399 (4th Cir. 2014).

Kane v. Lewis

U.S. No. 15-193

Filed certiorari petition as counsel of record seeking to reverse a Fourth Circuit ruling that overturned a damages award in a 42 U.S.C. § 1983 suit arising out of a fatal police shooting during a military-style police raid.

United States v. Davila

133 S. Ct. 2139 (2013)

Drafted amicus brief filed on behalf of 57 scholars of criminal law and criminal procedure arguing that judicial interference with the plea-bargaining process in violation of Federal Rule of Criminal Procedure 11(c)(1) is a structural error requiring automatic reversal of a conviction.

Wolfe v. Clarke

718 F.3d 277 (4th Cir. 2013)

Drafted brief arguing that federal habeas court properly exercised its authority in barring retrial as a remedy for the prosecution's serious *Brady* and *Giglio* violations in a state capital murder case.

United States v. Churchwell

465 F. App'x 864 (11th Cir. 2012)

Served as lead counsel in appeal of drug possession conviction arguing that the district court admitted out-of-court testimonial statements in violation of the Confrontation Clause.

Virginia v. Moore

553 U.S. 164 (2008)

Researched state arrest laws to help counsel for defendant prepare for Supreme Court argument in case involving the scope of the Fourth Amendment's search-incident-to-arrest exception to the warrant requirement.

New York State Board of Elections v. López Torres

552 U.S. 196 (2008)

Drafted Supreme Court amicus brief on behalf of New York State Senator, arguing that New York's system for selecting party candidates for judicial office violates the First Amendment rights of New York voters.

Honors & awards

- 2018 **Honorable Mention, Scholarly Papers Competition**
American Association of Law Schools
For *The Lottery Docket*
- 2016 **Finalist, Junior Scholars Paper Competition**
Criminal Justice Section, American Association of Law Schools
For *Adversarial Asymmetry in the Criminal Process*
- 2013 **Exemplary Legal Writing**
The Green Bag Almanac & Reader
For Brief of Professor Stephen E. Sachs as Amicus Curiae, *Atlantic Marine Construction Co. v. U.S. District Court*, 134 S. Ct. 568 (2013) (as co-counsel with Jeffrey S. Bucholtz & Stephen E. Sachs)
- 2008 **John M. Olin Law & Economics Prize**
Harvard Law School
For *Mechanisms of Secrecy*

Presentations

- Apr. 2018 Bank of America Legal Roundtable, Charlotte, NC, *Supreme Court Update*
(co-panelists Lisa Blatt, Willy Jay, Roman Martinez, Kannon Shanmugam, and Ian Samuel)
- Apr. 2018 * Boston College Law School, *Harmless Errors and Substantial Rights*
- Apr. 2018 University of Akron School of Law, *First Mondays Live Recording* (with Ian Samuel)
- Mar. 2018 Yale Law School, *First Mondays Live Recording* (hosted by *Yale Law Journal*), New Haven, Connecticut (with Ian Samuel and special guest Linda Greenhouse)
- Jan. 2018 Judicial Decisionmaking Colloquium, Duke Law School, Durham, NC, *The Lottery Docket*
- Oct. 2017 Federal Bar Association Mid-South Chapter Annual Seminar, Memphis, TN, *The Supreme Court in 2017: Review and Preview*
- Oct. 2017 University of Michigan Law School, *Michigan Law Review* Author Talk, *The Lottery Docket* (with William Ortman)
- Oct. 2017 Washington University School of Law, *Harmless Errors and Substantial Rights*
- Oct. 2017 2017 Southeastern Junior-Senior Faculty Workshop, Washington University School of Law, *Harmless Errors and Substantial Rights*
- Aug. 2017 New York University School of Law, The Art of Advocacy (student lecture series), *Supreme Court Strategy and Ethics in the Gay-Marriage Litigation* (with Ian Samuel)
- Aug. 2017 Saint Louis University School of Law, *The Lottery Docket*
- July 2017 Junior Criminal Law Roundtable, Brooklyn Law School and St. John's Law School, *Informed Juries and Political Feedback*
- June 2017 Law & Society Annual Meeting, Mexico City, *Informed Juries and Political Feedback*
- May 2017 Northwestern University School of Law Criminal Law Theory Roundtable, *Liberty and Equality in Criminal Procedure*
- Feb. 2017 Washington University School of Law, Panelist, *The New Supreme Court Nominee: Neil*

	<i>Gorsuch</i>
Nov. 2016	Eighth Annual Southwest Criminal Law Workshop, William S. Boyd School of Law, University of Nevada-Las Vegas, Commentator, <i>Surrendering Sixth Amendment Principles</i> (by Carrisa Hessick, UNC School of Law)
Oct. 2016	2016 Southeastern Junior-Senior Faculty Workshop, University of North Carolina School of Law, <i>The Lottery Docket</i>
Nov. 2015	Washington University School of Law, <i>Adversarial Asymmetry in the Criminal Process</i>
Sept. 2015	Seventh Annual Southwest Criminal Law Workshop, University of Utah S.J. Quinney School of Law, <i>Adversarial Asymmetry in the Criminal Process</i>
July 2015	CrimFest, Cardozo School of Law, <i>Adversarial Asymmetry in the Criminal Process</i>
Jan. 2015	Harvard Law School, <i>The Consequences of Error in Criminal Justice</i>
Nov. 2014	The University of Chicago Law School, <i>The Consequences of Error in Criminal Justice</i>
Nov. 2014	Harvard Law School Criminal Justice Program of Study, <i>The Consequences of Error in Criminal Justice</i>

Media appearances (selected)

Kimberly Robinson, *Justices' Personalities Shine Through in Opinions About Orders*, BLOOMBERG LAW (May 8, 2018)

Jessica Gresko, *Justice Gorsuch weighs in on legal questions, meatball subs*, ASSOCIATED PRESS (Apr. 9, 2018)

Stephanie Russell-Kraft, *Munger Tolles, Orrick To Scrap Employee Arbitration Agreements*, BLOOMBERG LAW (Mar. 26, 2018)

Amanda Whiting, *Law Twitter Is Having a Fun Time Mocking Neil Gorsuch's Writing Style*, WASHINGTONIAN (Mar. 21, 2018)

Kevin Daley, *Chief Justice Says Courts 'Not Immune' From Harassment In Year-End Report*, THE DAILY CALLER (Jan. 2, 2018)

Mark Sherman, *Gorsuch establishes conservative cred in 1st year on court*, ASSOCIATED PRESS (Nov. 25, 2017)

Richard Wolf, *Supreme Court justice holds key vote on districts drawn to help parties*, USA TODAY (Sept. 29, 2017)

Tony Mauro, *Why Top Advocates Are Ghostwriting SCOTUS Briefs*, NATIONAL LAW JOURNAL (August 9, 2017)

Adam Liptak, *Confident and Assertive, Gorsuch Hurries to Make His Mark*, NEW YORK TIMES (July 3, 2017)

Robert Barnes, *Gorsuch asserts himself early as force on Supreme Court's right*, WASHINGTON POST (June 27, 2017)

David Leonhardt, *Revenge of the Young Brits*, NEW YORK TIMES (June 9, 2017)

Mark Walsh, *Should the Supreme Court select some cases by chance?*, ABA JOURNAL (June 2017)

Stephen Loiaconi, *Time running out to defuse Gorsuch fight before nuclear option invoked*,

WJLA (Sinclair Media) (Apr. 4, 2017)
 Perry Cooper, *Some SCOTUS Scheduling Speculation: Enough Is Enough*, U.S. LAW WEEK BLOG (Feb. 28, 2017)
 St. Louis Public Radio, *St. Louis on the Air Legal Roundtable* (Feb. 20, 2017)
 Harry Bruinius, *Why Some Liberals are Warming to Trump's Supreme Court Pick*, CHRISTIAN SCIENCE MONITOR (Feb. 10, 2017)
 Peter Baker, *Picking One Justice, Trump Has Eye on Choosing a Second*, NEW YORK TIMES (Jan. 31, 2017)
 Lisa Belkin, *Civil Servant? Worried About Illegal Orders? These Lawyers Want to Defend You*, YAHOO NEWS (Jan. 30, 2017)
 Kimberly Strawbridge Robinson, *Last Call for SCOTUS Grants, Amid Historically Slow Term*, U.S. LAW WEEK (Jan. 12, 2017)

Teaching

2018–19 Criminal Law, Criminal Procedure: Investigations, Public Law Theory Seminar
 2017–18 Criminal Law, Criminal Procedure: Adjudication, Public Law Theory Seminar
 2016–17 Criminal Law, Structural Criminal Justice Seminar
 2013–16 First-year Legal Research and Writing
 2012 Supreme Court Decisionmaking

Service

Fair Punishment Project, Harvard Law School

2016– Member, Legal Advisory Council for Amicus and Issue Briefs

Committee Responsibilities

2017–18 Appointments Committee
 2016–17 Clerkship Committee

Moot Court Participant

Oct. 2017 *Merit Management Group v. FTI Consulting* (for Petitioner)
 Mar. 2017 *Trinity Lutheran Church of Columbia, Inc. v. Comer* (for Respondent)
 Jan. 2016 *Puerto Rico v. Sanchez Valle* (for Petitioner)
 Oct. 2015 *Foster v. Chatman* (for Petitioner)
 Apr. 2014 *Lane v. Franks* (for Respondent)

Peer Review

Harvard Law Review
Northwestern University Law Review
Yale Law Journal

Professional memberships

2018 American Law & Economics Association

Bar admissions

2015 Supreme Court of the United States
2015 United States Court of Appeals for the First Circuit
2013 United States Court of Appeals for the Fifth Circuit
2013 United States Court of Appeals for the District of Columbia Circuit
2012 United States Court of Appeals for the Third Circuit
2011 United States Court of Appeals for the Second Circuit
2011 United States Court of Appeals for the Fourth Circuit
2011 United States Court of Appeals for the Eighth Circuit
2011 United States Court of Appeals for the Ninth Circuit
2011 United States Court of Appeals for the Eleventh Circuit
2011 District of Columbia