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

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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 • remedies & sanctions

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 2018)

The Lottery Docket

116 MICHIGAN LAW REVIEW __ (forthcoming March 2018) (with William Ortman)

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 & STUDENT WORK

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)

Contributor, *Take Care* (2017–present)

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)

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

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

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

Media appearances (selected)

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

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 Judge

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

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