

CURRICULUM VITAE

Brian J. Foley

Drexel University College of Law
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Philadelphia, PA 19104
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EDUCATION

Boalt Hall School of Law, University of California, Berkeley

J.D. 1993

Associate Editor, *California Law Review*

Legal writing instructor

Prosser Prize in Torts

Dartmouth College, Hanover, NH

A.B. 1987

Cum laude

Honors in English major

Citation for top performance in English upper-level seminar

Class of 1846 Latin Prize

Carl and Effie Ellis Endowed Scholarship

French study in Toulouse, France

Writing Tutor, Department of English Composition Center (Coordinator of Center after graduation)

Founder and Editor-in-Chief of *Gnosis*, Dartmouth's Undergraduate Academic Journal

JUDICIAL CLERKSHIP

Honorable Edmund V. Ludwig

U.S. District Court for the Eastern District of Pennsylvania, Philadelphia, PA

Judicial Law Clerk, September, 1993 - September, 1994

ACADEMIC APPOINTMENTS

Drexel University College of Law, Philadelphia, PA

Visiting Associate Professor of Law, August, 2007 – August 2008

Courses: Criminal Procedure, Evidence

Florida Coastal School of Law, Jacksonville, FL

Associate Professor of Law, August, 2007, to present

Assistant Professor of Law, August, 2004 – July, 2007
Courses: Advanced Criminal Procedure, Civil Dispute Resolution (Civil Procedure), Criminal Law, Criminal Procedure, Evidence, Federal Courts (second half of semester after professor became ill)
Committees: Admissions, Academic Standards

Touro College Law Center, Huntington, NY

Visiting Associate Professor of Law, July, 2003 – July, 2004
Courses: Business Associations I and II, Civil Procedure I and II

Widener University School of Law, Wilmington, DE

Legal Methods Professor, July, 1999 - July, 2003
Director of CLE Programs, 2001
Courses: Legal Methods I, II, & III, Advanced Brief Writing, Property II
Committees: Faculty Development, Admissions, and Curriculum

Rutgers School of Law, Camden, NJ

Legal Writing Faculty, August, 1997 - July, 1999
Visiting Legal Writing Faculty, Summers 1999 and 2000
Courses: Legal Writing, Moot Court, Advanced Brief Writing

TEACHING AREAS

Criminal Law, Criminal Procedure, Evidence; also taught Advanced Criminal Procedure, Business Organizations I & II, Civil Procedure I & II, Federal Courts, Legal Methods I-III, and Property II

ATTORNEY EMPLOYMENT

Connolly Epstein Chicco Foxman Engelmyer & Ewing, Philadelphia, PA

Associate, February 1996 - August, 1997
Experience included corporate litigation, insurance coverage (environmental, construction, and other general liabilities), patent infringement, employment, collections, and entertainment. Argued and won pro bono appeal in Pennsylvania Superior Court to reverse trial court for abuse of discretion; first-chaired a pro bono bench trial in U.S. District Court in an Eighth Amendment case; negotiated and achieved settlements.

Dechert Price & Rhoads, Philadelphia, PA

Associate, September, 1994 - February, 1996
Litigation experience in products liability, insurance coverage, corporate, construction

BAR ADMISSIONS

Pennsylvania

OTHER LEGAL EXPERIENCE

The Defender Association of Philadelphia, Philadelphia, PA

Pro Bono criminal defense, June, 2005 – present

Wrote argument in brief for Pennsylvania Superior Court arguing that the logic of *Roper v. Simmons*, 543 U.S. 551 (2005), ruling that the death penalty is unconstitutional for juveniles, extends to life without parole sentences for juveniles. The brief includes a 50-state survey of life without parole sentences (for juveniles and adults) and laws governing transfer of juveniles to adult court. Our direct appeal is not yet due, but we filed the argument as an amicus brief in two cases where the inmate is proceeding pro se and since then have met with almost 30 other potential litigants (see above, “Amicus Briefs”). Built and supervised team of 15 law students who received Pro Bono credit hours.

Philadelphia Court of Common Pleas, Philadelphia, PA

Arbitrator, August 2001 - August, 2003

Served on three-lawyer panels hearing cases pursuant to court program about once every six weeks.

Consulting:

Co-created co-presented in-house training programs for attorneys and summer associates at:

- Reed Smith Shaw & McClay, LLP, Philadelphia, PA (Summers 1999, 2000, 2002, 2003, Fall 2003) (legal writing and persuasion)

- Budd Lerner Gross Rosenbaum Greenberg & Sade, Short Hills, NJ (Summer 1999) (legal writing)

- Connolly, Bove, Lodge & Hutz, Wilmington, DE (Summers 2001 (legal writing) and 2003 (negotiation))

OTHER EMPLOYMENT

The Keene Sentinel, Keene, NH

Staff Writer, November, 1988 - July, 1990

Reported on local governments, police and courts, and wrote investigative stories and feature articles for this award-winning, independent, daily newspaper.

Dartmouth College, Hanover, NH

Department of English Composition Center: Coordinator, June, 1987 - August, 1988
Oversaw and expanded Peer Tutor and Writing Assistant programs to address student writing across the Dartmouth curriculum. Developed training programs for tutors and writing assistants.

St. Paul's School, Concord, NH

Intern Teacher, Advanced Studies Program, Summer 1986
Taught Literature and Composition under supervision of Master Teacher. Supervised students in dorm. Gave Chapel talk. Co-organized poetry reading.

PUBLICATIONS

Law review articles:

Guantanamo and Beyond: Dangers of Rigging the Rules, 97 JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY ____ (2007) (forthcoming)

Avoiding a Death Dance: Adding Steps to the International Law on the Use of Force to Improve the Search for Alternatives to Force and Prevent Likely Harms, 29 BROOKLYN J. INT'L L. 129 (2003). Submitted pursuant to a Call for Papers on this topic; Editor-in-Chief informed me that this article was the best one received (email on file)

Brian J. Foley & Ruth Anne Robbins, *Fiction 101: A Primer for Lawyers on How to Use Fiction Writing Techniques to Write Persuasive Facts Sections*, 32 RUTGERS L.J. 459 (2001). Reprinted three times, at 51 DEFENSE L.J. 149 (Spring, 2002); by Lexis-Nexis (distributed to subscribing attorneys via email); and by the National Institute of Trial Advocacy in *NITA Litigation Articles* (www.nita.org/lexisarticles.htm) (July, 2002). It is cited and discussed in various legal writing textbooks, including HON. RUGGERO J. ALDISERT, *WINNING ON APPEAL: BETTER BRIEFS AND ORAL ARGUMENT* (2d ed. 2003).

Book chapters:

Reforming the Security Council to Achieve Collective Security, in PROGRESS IN INTERNATIONAL ORGANIZATION (Martinus Nijhoff, forthcoming) (peer reviewed)

Co-author, *Their Morals Are Ours*, in LEADING TO THE 2003 IRAQ WAR: THE GLOBAL MEDIA DEBATE (Alexander G. Nikolaev, Ernest A. Hakanen, eds.), published January 2006

Conference papers:

“Recent (Indecent) Exposures: Impact on International Law of U.S. Policies Toward Iraq and North Korea,” *Proceedings of the Conference on U.S. Nuclear Policy and Counterproliferation* 26 (2003).

The Conference was sponsored by the Physicians for Social Responsibility and the Center for Defense Information, Washington, D.C., February 26, 2003. The article is available at <http://www.lawyersagainststthewar.org/legalarticles/foleyexposure.html>

“Avoiding War: Using International Law to Compel a Problem-Solving Approach,” *Proceedings of the International Symposium on Terrorism and Human Rights, Cairo, Egypt*.

The Symposium was sponsored by the Cairo Institute for Human Rights Studies. The paper was also published as a "feature" on November 5, 2002 on the website for TFF, The Transnational Foundation for Peace and Future Research

<http://www.lawyersagainststthewar.org/legalarticles/foley.pdf>

Amicus briefs:

Brief of Amicus Curiae Defender Association of Philadelphia and Juvenile Law Center on Behalf of Aaron Phillips, in Commonwealth of Pennsylvania v. Aaron Phillips, Pennsylvania Superior Court, Eastern District, EDA 2005, No. 2729 (coauthored as pro bono counsel with Defender Association of Philadelphia and Juvenile Law Center). This brief has been made available online at www.aoc.state.nc.us/www/ids/Brief%20Bank/Briefs/Phillips,%20Aaron.doc

We have filed substantially the same argument in *Brief of Amicus Curiae Defender Association of Philadelphia and Juvenile Law Center on Behalf of John Pace*, in Commonwealth of Pennsylvania v. John Pace, Pennsylvania Superior Court, Eastern District, EDA 2006, No. 921.

Commentary (selected):

I have published more than 30 editorials since December, 2000, in publications including *JURIST*, *The National Law Journal*, *Delaware News-Journal*, *Harrisburg Patriot News*, and *The Philadelphia Inquirer*. Six have been selected by *Yahoo! News Full Coverage*.

“Policy in Guantanamo Won’t Thwart Terrorism,” *THE PHILADELPHIA INQUIRER*, July 23, 2007

http://www.philly.com/inquirer/opinion/20070723_Policy_in_Guantanamo_wont_thwart_terrorism.html

“Challenging Gitmo,” *THE NATIONAL LAW JOURNAL*, June 26, 2006 (book review of JOSEPH MARGULIES, *GUANTANAMO AND THE ABUSE OF PRESIDENTIAL POWER* (2006)) <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1151053520696>

“Limiting War by Process: Congress, the UN, and Iran,” *JURIST*, May 25, 2006
<http://jurist.law.pitt.edu/forumy/2006/05/limiting-war-by-process-congress-un.php>

“The Real Danger of Presidential Spying,” *JURIST*, January 30, 2006. Selected as the “Spotlight” article on *Antiwar.com* for February 1, 2006
<http://jurist.law.pitt.edu/forumy/2006/01/real-danger-of-presidential-spying.php>

“Playing With Fire – Congress and Executive Power,” JURIST, January 9, 2006
<http://jurist.law.pitt.edu/forumy/2006/01/playing-with-fire-congress-and.php>

“The Graham-Levin Amendment and Due Process at Guantanamo,” JURIST, November 16, 2005. Written at request of JURIST’s editor, Professor Bernard Hibbitts.
<http://jurist.law.pitt.edu/forumy/2005/11/graham-levin-amendment-and-due-process.php>

“Why Americans Don’t Care About GTMO, and Why They Should,” JURIST, November 1, 2005 <http://jurist.law.pitt.edu/forumy/2005/11/why-americans-dont-care-about-gtmo-and.php>

“Guantanamo Process as a Public Danger,” JURIST October 11.2005. Written by invitation of JURIST’s editor, Professor Bernard Hibbitts. Selected for *Yahoo! News Full Coverage*.
<http://jurist.law.pitt.edu/forumy/2005/10/guantanamo-process-as-public-danger.php>

“I Gave My Copy of the Constitution to a Pro-War Veteran,” ANTIWAR.COM, October 1, 2005
<http://www.antiwar.com/orig/foley.php?articleid=7467>

“The Profit-driven War,” COUNTERPUNCH, September 15, 2005
<http://www.counterpunch.org/foley09152005.html> Selected by the War Resisters League as the introduction to their anti war-profiteering project, “Stop the Merchants of Death.”
<http://www.warresisters.org/smod/looting.shtml>

“Don’t Tread on Me: Act Now to Save the Constitution,” COUNTERPUNCH, December 27-28 2003 www.counterpunch.org/foley12272003.htm

“Power to the Purse!” COMMON DREAMS, September 18, 2003
<http://www.commondreams.org/views03/0918-13.htm>

“No Iraqi Surprise: Look Now, Not Later, at the Dangers of War,” COUNTERPUNCH, August 12, 2002 <http://www.counterpunch.org/foley0812.html>

“Legal Analysis: U.S. Campaign Against Afghanistan Not Self-Defense Under International Law,” COUNTERPUNCH, Nov. 6, 2001, and Z NET. Translated into French and Spanish. Selected for *Yahoo! News Full Coverage*. <http://www.counterpunch.org/foley1.html>

SCHOLARLY CONFERENCES ORGANIZED

Once Upon a Legal Time: Developing the Skills of Storytelling in Law, City Law School, Gray’s Inn, London, England, July 18-20 (co-organizer). This was the first-ever “Applied Legal Storytelling” conference. There were almost 90 participants representing 11 countries. Link: http://www.city.ac.uk/law/vocational/storytelling_in_law_.html

PRESENTATIONS

Academic Conferences:

City Law School, Gray's Inn, London, England, Once Upon a Legal Time: Developing the Skills of Storytelling in Law Conference, July 18-20, 2007. Presented "What's Going on Here? Is Applied Legal Storytelling Political?"

2006 American Philosophical Association, Eastern Division Annual Meeting. Commentator on a panel on Criminal Law, December 27-30, 2006, Washington, D.C. (invited)

Emory University School of Law, Feminism and Legal Theory Workshop, Storytelling and the Law: A Retrospective on Narrative, Ethics and Legal Change, October 27-28, 2006. Presented paper, "Indicted Men and Women Tell No Tales: When Criminal Laws Do Not Let Defendants Tell Their Stories."

2006 Southeastern Association of Law Schools Annual Meeting. Presented "Challenging the Changing Paradigm of Article II" (invited)

University of Gloucester (U.K.), The Power of Stories: Intersections of Law, Culture & Literature, July 24-26, 2005. The conference was sponsored by Texas-Wesleyan School of Law, the University of Gloucester, and the Central Gloucester Initiative. Presented "Indicted Men Tell No Tales."

University of Idaho College of Law, 2005 Idaho International Law Symposium, Coeur d'Alene, Idaho. Presented "Reforming the *Jus ad Bellum* to Prevent War" (invited)

2000 Legal Writing Institute Conference, Seattle University. Co-presented "Creative Ways to Teach Persuasive Facts Sections."

1998 Legal Writing Institute Conference, University of Michigan, Ann Arbor. Presented "Using Creative Writing Workshop Techniques in the Classroom"

Presentations to Law Faculties:

Florida Coastal School of Law, "Slaying the Monster at Home: A Proposal to Return the Constitutional War-Making Powers to Congress," Faculty Workshop, April, 2005

Touro College Law Center, "Why the U.S. Invasion of Iraq was not a Humanitarian Intervention," March 17, 2004

Rutgers School of Law – Camden, “Stepping Back from the Abyss: Going Beyond the UN Charter to More Realistic and Workable Rules on the Use of Force,” September 30, 2002 (invited)

Widener University School of Law, “The Legality of the U.S. Campaign Against Afghanistan,” Wilmington, Delaware, November 29, 2001

University-wide Presentations:

Drexel University, *The Road From Guantanamo: Returning to the Rule of Law and Sound Policy*, January 12, 2007. Presented on flaws in tribunal rules

University of Pennsylvania, *Penn Teach-In on the Occupation of Iraq*, sponsored by Penn Faculty and Staff Against War on Iraq, September 20, 2006. Presented “U.S. Civil Right Erosion [as a result of U.S. invasion and occupation of Iraq].” Handout available: <http://ccat.sas.upenn.edu/fsawi/teachin/liberties.html>

Public Debates:

“Resolved: The NSA Spying Program is a Legal and Important Tool in the War on Terror.” Debated the negative, against Dr. Roger Pilon, Vice President for Legal Affairs, B. Kenneth Simon Chair in Constitutional Studies, Director, Center for Constitutional Studies at the Cato Institute, September 7, 2006, Florid Coastal School of Law (sponsored by the Federalist Society) (video available on request.)

“Is the U.S. War Against Afghanistan Justified Under International Law (and Does It Matter)?” Widener University School of Law, Wilmington, Delaware, April 24, 2002. Debated Doug Bandow, Senior Fellow of the Cato Institute and former adviser to President Reagan (video available upon request.)

Civil Society/Public Affairs Conferences:

2005 Association of World Citizens Conference, San Francisco, CA. Presented “The Profit-Motive in the U.S. War Against Iraq” (invited)

2004 International Association of Educators for World Peace Conference, Atlanta, Georgia. Presented “Regulating U.S. Political Decision-making Concerning the Use of Military Force”

Physicians for Social Responsibility and the Center for Defense Information, U.S. Nuclear Policy and Counter-proliferation Washington, D.C., February 26, 2003. Presented “Recent (Indecent) Exposures: Impact on International Law of U.S. Policies on Iraq and North Korea” (invited)

Cairo Institute of Human Rights, International Symposium on Terrorism and Human Rights, Cairo, Egypt, January 27, 2002. Presented “Avoiding War: Using International Law to Compel Rational Problem-Solving.” This Symposium was the first such gathering of scholars and officials from the UN and various NGOs after 9/11.

The Sixth International Conference on Philosophy in Practice, Oslo, Norway, July 25, 2001. Co-presented “Traditional Therapy Gone Wrong: In the Counsel of the Wicked” (discussing psychotherapeutic malpractice)

CLE Programs:

“The Art of Persuasion,” Widener University School of Law, Wilmington, Delaware, September 29, 2001

“Storytelling for Lawyers: How to Use the Most Powerful Tool of Persuasion to Win Your Cases,” Philadelphia, Pennsylvania, April 27, 2001 (co-presenter, served as Chair)

“Facts from Fiction: Using Fiction Writing Techniques in Writing Facts Sections,” Widener University School of Law, Wilmington, Delaware, October 14, 2000

“How to Write Winning Briefs,” New Jersey Institute for Continuing Legal Education, Mount Laurel, New Jersey, November 13, 1999 (co-presenter)

“Practical Brief Writing Skills,” New Jersey Institute for Continuing Legal Education, New Brunswick, New Jersey, March 6, 1999 (co-presenter)

MEDIA APPEARANCES

Radio:

Featured Guest, KPFK, Los Angeles/Santa Barbara, *The Jerry Quigley Show*, April 27, 2007 (discussing expansion of presidential power)

Featured guest, WWRL, New York City, *The Morning Show*, co-hosted by Sam Greenfield and Armstrong Williams, May 15, 2006 (discussing the implications of the NSA’s reportedly obtaining all phone call records from three major U.S. phone companies).

Featured Guest, KCPW, Utah NPR station, *Midday Utah*, February 7, 2006 (discussing U.S. Senate hearings on the National Security Agency spy issue)

Featured guest on four radio programs to discuss the issue of executive power in the context of the Senate Judiciary Committee’s confirmation hearings for Hon. Samuel Alito in January, 2006:

- *The Charles Goyette Show*, Air America Phoenix
- *The Jerry Quigley Show*, KPFK, Los Angeles/Santa Barbara
- WZBC, Boston
- KGNU, Boulder, CO

Featured Guest, *The Ron Smith Show*, WBAL AM 1090, Baltimore, MD, August 20, 2002
(discussing proposed war against Iraq)

Featured Guest, *The Rick Jensen Show*, WDEL AM 1150, Wilmington, DE, December 26, 2001
(discussing legality of U.S. war against Afghanistan under international law)

Television:

Featured Guest, *Philly LIVE - Your International Connection*, WYBE TV, Philadelphia, PA, November 18, 2002 (discussing November 8, 2002 UN Security Council Resolution 1441 on Iraq) (videotape available upon request)

Newspapers:

Quoted in articles by non-profit global news agency Inter Press Service (IPS)

In books:

- "The Graham-Levin Amendment and Due Process at Guantanamo," JURIST, November 16, 2005, is quoted in Chalmers Johnson, NEMESIS: THE LAST DAYS OF THE AMERICAN REPUBLIC (2007), a *New York Times* Best-Seller (Hardcover Non-Fiction)

- Blurb on back of Terrence E. Paupp, EXODUS FROM EMPIRE: THE FALL OF AMERICA'S EMPIRE AND THE RISE OF GLOBAL COMMUNITY (2006)
<http://www.press.umich.edu/titleDetailDesc.do?id=290618>