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EDUCATION

- J.D. Yale Law School, 1997
The Yale Law Journal, Editor, Volume 106
Yale Law and Policy Review, Editor, Volume 12
Honorable Mention for Oral Argument, Harlan Fiske Stone Prize Finals, 1996
Morris Tyler Moot Court of Appeals, Board of Directors
- B.A. University of California, Los Angeles, History & Political Science, *magna cum laude*, 1993
Phi Beta Kappa
Highest Departmental Honors (conferred by thesis committee)
Carey McWilliams Award for Best Honors Thesis: *Building the City on the Hilltop: A Socio-Political Study of Early Christianity*

ACADEMIC APPOINTMENTS

American University, The Washington College of Law
Professor of Law, May 2009–Present
Elizabeth Payne Cubberly Scholar, 2010
Associate Professor of Law, June 2008–May 2009

University of Oregon School of Law
Associate Professor of Law (with tenure), 2007-08
Assistant Professor, 2002-07

Yale University, Department of History
Teaching Fellow, 1996, 1997

CLERKSHIPS

The Honorable Hugh H. Bownes, U.S. Court of Appeals for the First Circuit, 1998-99

The Honorable Denny Chin, U.S. District Court, Southern District of New York, 1997-98

PUBLICATIONS

BOOKS

ELOQUENCE AND REASON: CREATING A FIRST AMENDMENT CULTURE (Yale University Press 2008)
• Reviews collected at www.eloquenceandreason.blogspot.com

DEFIANT DESIGNS: AMERICA'S FORGOTTEN CONSTITUTIONS (under contract, Harvard University Press)

ARTICLES

Notes on Borrowing and Convergence, COLUMBIA LAW REVIEW SIDEBAR (2011) (with Nelson Tebbe)
(Comment on Jennifer Laurin, *Trawling for Herring: Lessons in Doctrinal Borrowing and Convergence*,
111 COLUM. L. REV. 670 (2011))

John Brown's Constitution, 51 BOSTON COLLEGE LAW REVIEW 151 (2010)

The Ethics of Melancholy Citizenship, 89 OREGON LAW REVIEW 557 (2010)

Constitutional Borrowing, 108 MICHIGAN LAW REVIEW 459 (2010) (with Nelson Tebbe)

Reconsidering Gobitis: An Exercise in Presidential Leadership, 86 WASHINGTON UNIVERSITY LAW
REVIEW 363 (2008)
• Selected for 2008 Stanford/Yale Junior Faculty Forum in *Constitutional History*
(Referees: Larry Kramer, William Nelson)

Democracy's Handmaid, 86 BOSTON UNIVERSITY LAW REVIEW 1 (2006)

Sacred Visions of Law, 90 IOWA LAW REVIEW 1095 (2005)
• Shortlisted for *The Green Bag Almanac & Reader of Good Legal Writing 2006*

Fire, Metaphor, and Constitutional Myth-Making, 93 GEORGETOWN LAW JOURNAL 181 (2004)
• Selected for 2004 Stanford/Yale Junior Faculty Forum in *Constitutional Theory*
(Referees: Kathleen Sullivan, Bruce Ackerman)
• Shortlisted for *The Green Bag Almanac & Reader of Good Legal Writing 2006*
• Excerpted in *Oregon Quarterly* 9 (Autumn 2004)

Speech and Strife, 67 LAW & CONTEMPORARY PROBLEMS 83 (Summer 2004) (invited paper for 2002
Public Law Conference, Duke University School of Law)

*Conceptualizing Constitutional Litigation as Anti-Government Expression: A Speech-Centered Theory of
Court Access*, 51 AMERICAN UNIVERSITY LAW REVIEW 835 (2002)

REVIEW ESSAYS

Book Review, 8 PERSPECTIVES ON POLITICS 1228 (2010) (reviewing Beau Breslin, *From Words to Worlds* (Johns Hopkins University Press, 2009))

Sovereignty as Discourse, 25 CONSTITUTIONAL COMMENTARY 157 (2008) (reviewing Howard Schweber, *The Language of Liberal Constitutionalism* (Cambridge University Press 2007))

The System Worked: Our Schizophrenic Stance on Welfare, 106 YALE LAW JOURNAL 929 (1996) (reviewing Steven M. Teles, *Whose Welfare: AFDC and Elite Politics* (University Press of Kansas 1996))

CONTRIBUTIONS

Chambers v. Florida, in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES, David S. Tanenhaus, ed. (New York: MacMillan Reference USA/Thomson-Gale 2008)

First Amendment, in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES, David S. Tanenhaus, ed. (New York: MacMillan Reference USA/Thomson-Gale 2008)

Public Forum, in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES, David S. Tanenhaus, ed. (New York: MacMillan Reference USA/Thomson-Gale 2008)

WORKS IN PROGRESS

PRESIDENTIAL STRATEGIES ON RIGHTS (book manuscript)

War Constitutionalism

Simple Takes On the Supreme Court

Between Two Legal Orders: Justice Frank Murphy as Transitional Figure

Citizenship as Portfolio Management

POPULAR WRITINGS

Revolutionary Spark, LEGAL AFFAIRS, November/December 2004, p. 20

County Has a Duty to Interpret State Marriage Law and Constitution, Editorial, THE OREGONIAN, March 6, 2004

Deciphering the Will of the People, Editorial, THE OREGONIAN, Nov. 15, 2004 (online), reprinted as *Measure 36 Does Not Rule Out Civil Unions*, THE REGISTER-GUARD, Nov. 12, 2004, at A13

COURSES AND AREAS OF SPECIALIZATION

Constitutional Law
Criminal Procedure
Democratic Theory
Federal Jurisdiction

Jurisprudence
Social Movements
Law as Language
Civil Rights Litigation

SELECTED SCHOLARLY PRESENTATIONS

Forms of Popular Sovereignty, “Popular Sovereignty and American Democracy,” Inaugural Conference of American Democracy Forum, University of Wisconsin, May 25, 2011

Egalitarianism and Displacement, Workshop on Race, Gender, and Sexuality in Law and Political Development, Ohio University, Athens, Ohio, May 20-21, 2011

Non-Territorial Forms of American Sovereignty, Faculty Workshop, University of Washington Law School, Seattle, Washington, May 12, 2011

Charles R. Clason Lecture: Lessons from the Indian Stream Republic, Western New England College of Law, Springfield, Massachusetts, March 3, 2011

Two Alternative Republics, Faculty Workshop, Rutgers University Law School, Camden, New Jersey, February 7, 2011

“*One Good World*”: *Deploying the American Experience to Undermine the Nation-State*, Midwest Constitutional Law Discussion Group, University of Wisconsin, Madison, Wisconsin, October 22, 2010

Dealing With Democratic Heartbreak, Address for Conference “How Rhetoric Shapes the Law: Pedagogy, Theory, Practice,” American University, Washington College of Law, October 15, 2010

Pioneer Constitutionalism, D.C. Area Legal History Roundtable, Georgetown University Law Center, Washington, D.C., October 8, 2010

America’s Forgotten Constitutions, Public Law Writing Group, Washington, D.C., June 9 & July 19, 2010

Dreams of White Forefathers, Law & Society Association, Panel: “Uses of the Past in Constitutional Discourse,” Chicago, Illinois, May 29, 2010

America’s Forgotten Constitutions, Legal Studies Workshop, Stanford Law School, Stanford, California, March 8, 2010

America’s Forgotten Constitutions, Faculty Colloquium, University of Connecticut Law School, Hartford, Connecticut, January 20, 2010

John Brown’s Constitution, Symposium: “John Brown Remembered: 150 Year Anniversary of the Raid on Harper’s Ferry,” Harper’s Ferry, West Virginia, October 16, 2009

The Northwest Homeland, Loyola Law School, Los Angeles, California, September 10, 2009

Eloquence and Reason, Author Meets Readers, Annual Meeting of the Law and Society Association, Denver, Colorado, May 28-31, 2009 (Discussants: Susan Burgess, Lief Carter, Mark Graber, Julie Novkov)

War Constitutionalism, D.C. Public Law Roundtable, American University, May 21 & June 24, 2009

The Ethics of Melancholy Citizenship, Symposium: Contested Citizenship, University of Oregon School of Law, Eugene, Oregon, May 7-8, 2009

Eloquence and Reason, Wayne Morse Center for Law & Politics, University of Oregon, Eugene, Oregon, May 6, 2009 (Commentator: Joseph Lowndes)

Constitutional Borrowing, Annual Meeting of the Association for the Study of Law, Culture, and the Humanities, Boston, Massachusetts, April 4, 2009, May 2009

Eloquence and Reason, Author Meets Readers, Annual Meeting of the Association for the Study of Law, Culture, and the Humanities, Boston, Massachusetts, April 3, 2009

Two Arguments Against Tolerance, Panel: *The Limits of Tolerance*, Symposium: Religion and the State, Center for the Study of Liberal Democracy/Lubar Institute for the Study of Abrahamic Religions, University of Wisconsin, Madison, Wisconsin, March 27-28, 2009

Bottom-Up Accounts of Religious Support for Gay Marriage, Comment, Sarah Barringer Gordon, *The Spirit of the Law*, American University, Washington College of Law, February 13, 2009

The Role of Presidential Leadership in Advancing Civil Rights, American University, Washington College of Law, January 30, 2009

Constitutional Borrowing, Faculty Workshop, University of Baltimore Law School, Baltimore, Maryland, October 23, 2008

Assessing Polarization, West Coast Constitutional Law Discussion Group, University of Oregon School of Law, Eugene, Oregon, September 13, 2008

Reconsidering Gobitis, Stanford/Yale Junior Faculty Forum, New Haven, Connecticut, June 21, 2008

Contested Citizenship and the Processes of Identity Formation, Annual Meeting of the Association for the Study of Law, Culture and the Humanities, Berkeley, California, March 29, 2008

John Brown's Constitution, Constitutional Law Discussion Group, University of Maryland School of Law, Baltimore, Maryland, March 8, 2008

Reconsidering Gobitis, Faculty Colloquium, Georgetown University Law Center, Washington, D.C., February 20, 2008

How Social Conservatives Remade the Wall of Separation, Symposium: “The 21st Century Brain: Why It Matters for the Academic and Political Worlds,” University of Pittsburgh School of Law, Pittsburgh, Pennsylvania, February 8, 2008

Presidential Leadership and Linguistic Transformation, University of Iowa College of Law, Iowa City, Iowa, September 6, 2007

Gobitis Reconsidered, May Gathering, University of Virginia Law School, Charlottesville, Virginia, June 1, 2007

The Responsive Judiciary, Faculty Workshop, Thomas Jefferson School of Law, San Diego, California, April 20, 2007

Measuring Interpretive Plausibility, Faculty Colloquium, St. John’s University School of Law, New York, New York, March 5, 2007

First Amendment Borrowing, Distinguished Speakers Series, Seattle University School of Law, Seattle, Washington, March 3, 2006

Text as One Aspect of a People’s Vocabulary, Faculty Workshop, University of Washington School of Law, Seattle, Washington, March 2, 2006

The Irrepressible First Amendment, Faculty Workshop, Chicago-Kent College of Law, Chicago, Illinois, February 8, 2006

Eloquence and Reason, Faculty Workshop, St. Louis University School of Law, St. Louis, Missouri, February 7, 2006

The Irrepressible First Amendment, Faculty Workshop, Washington University School of Law, St. Louis, Missouri, February 6, 2006

The Irrepressible First Amendment, Panel: “First Amendment Borrowing,” Annual Meeting of the Law & Society Association, Las Vegas, Nevada, June 3, 2005

Metaphor and Democracy, Eighth Annual Meeting of the Association for the Study of Law, Culture and the Humanities, Austin, Texas, March 11, 2005

Fire, Metaphor and Constitutional Myth-Making, Stanford-Yale Junior Faculty Forum, Yale Law School, New Haven, Connecticut, June 5, 2004

Roundtable: Brown, *Legitimacy, and Constitutional Culture*, Annual Meeting of the Law & Society Association, Chicago, Illinois, May 29, 2004

The First Amendment: Metaphor and Role-Playing, Faculty Colloquium, University of California, Davis, King Hall School of Law, Davis, California, October 1, 2003

Framing Judicial Power, Joint Conference of Asian Pacific American Law Teachers and Western Regional Law Teachers of Color, Seattle, Washington, March 20-22, 2003

The Meaning of Judicial Authority, Fourth Annual Public Law Conference, Duke University School of Law, Durham, North Carolina, December 14, 2002

OTHER PRESENTATIONS

Why Write Books?, Conference of Asian Pacific American Law Faculty, Tucson, Arizona, March 4, 2010

Eloquence and Reason, American Constitution Society/ACLU of Oregon/Federal Bar Association, Portland, Oregon, May 8, 2009

Framing First Amendment Arguments in Uncertain Times, Distinguished Speakers' Series, Marbury Institute, Offices of DLA Piper, Atlanta, Georgia, March 6, 2009

Eloquence and Reason, Federalist Society, American University, Washington College of Law, Washington, D.C., November 18, 2008

Constitutional Interpretation and Litigation After Heller, Moderator, American University, Washington College of Law, Washington, D.C., September 24, 2008

What are the Stakes in the Guantanamo Bay Detention Cases?, Wayne Morse Center for Law and Politics, Eugene, Oregon, October 8, 2007

Workshop on Thriving and Surviving the Academy: Concrete Steps for People of Color and Their Law Schools, Washington, D.C., June 27-28, 2007

The Impact of Judge John Roberts' Confirmation to the U.S. Supreme Court, Seminar, National Association of Criminal Defense Lawyers, Portland, Oregon, August 5, 2005

Imagining Life Under a Libertarian Constitution, Response to Randy E. Barnett, *Restoring the Lost Constitution*, The Federalist Society, University of Oregon School of Law, Eugene, Oregon, April 19, 2004

The State of the Law of Affirmative Action: Where Do We Go From Here?, Annual Convention of the National Asian Pacific American Bar Association, Honolulu, Hawaii, November 13, 2003

Judging in the Shadow of the New Federalism: Legislative-Judiciary Relationships, Moderator, Kenneth J. O'Connell Judicial Conference, Portland, Oregon, November 6, 2003

U.S. Supreme Court Roundup: Cross Burning and Internet Filtering, Oregon State Bar Annual Meeting, Seaside, Oregon, September 18, 2003

HONORS AND COMPETITIVE GRANTS

Elizabeth Payne Cubberly Scholar Award, American University, Washington College of Law, 2010

Lorry I. Lokey Award for Faculty Excellence, University of Oregon (nomination and peer review), 2008

Orlando John Hollis Faculty Teaching Award, University of Oregon Law School, 2007

Dean's Research Program, University of Oregon Law School, 2007

Summer Stipend, Dean's Fund, University of Oregon Law School, 2003-07

University Research Award, University of Oregon, 2004

New Faculty Award, University of Oregon, 2003

Jeffrey George Wilson Research Stipend, University of California, Los Angeles, 1993

Washington State Scholar, 1989

EMPLOYMENT HISTORY

Staff Counsel, American Civil Liberties Union, Atlanta, Georgia, 1999-2002
Summer Associate, Wilmer, Cutler & Pickering, Washington, D.C., 1997
Research Assistant, Bruce Ackerman, Yale Law School, 1997
Summer Associate, Cravath, Swaine & Moore, New York, New York, 1996
Law Clerk, U.S. Department of Justice, Civil Rights Division, Disability Rights Section,
Washington, D.C., Summer 1995
Law Fellow, Congressman Richard A. Gephardt, Washington, D.C., Summer 1995
Research Assistant, Steven B. Duke, Yale Law School, 1995-97
Research Assistant, David C. Rapoport, Department of Political Science, UCLA, 1990-92

SELECTED SERVICE

Guest Editor, "Hate and Political Discourse," *Journal of Hate Studies*, 2012-13
ASLCH Dissertation Award Committee, 2010
WCL Speaker Series and Scholarship Committee, 2008-09, 2010-11
Chair, WCL Rank and Tenure Subcommittee, 2008-09, 2010
Founder and Co-Chair, Oregon Legal Theory Workshop, 2005-07
Planning Committee, "Democracy and Citizenship," Wayne Morse Center for Law & Politics, 2006
Curriculum Committee, 2005-06
Dean's Faculty Advisory Committee (elected), 2004-05, 07-08
Faculty Appointments Committee, 2004-05, 06-07

AFFILIATIONS

American Political Science Association
Law and Society Association
Association for the Study of Law, Culture and the Humanities

PEER REVIEW

Cambridge University Press
Temple University Press
Aspen Publishers
Law and Social Inquiry
Journal of Criminal Justice and Popular Culture
Studies in Law, Politics & Society