

CHAD W. FLANDERS

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EMPLOYMENT

Professor of Law, Saint Louis University School of Law (2009th 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 6]TJvJ 0 n)

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 () TJ 0 Tc 0 3-1 (e)4

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

Public Reason and Public Wrong, 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. 1563, 2020 WL 1069503, at *32 (Iowa Mar. 6, 2020)

Animal Rights and Public Reason, in *OPTICAL 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 *E. 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 H. Ho, 10 *SO. 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 *ARIZ. JURIS* 180 (2012).

What Do We Want in a Presidential Primary? An Election Law Perspective, 44 *W. 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*, 13 *W. L.* 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).

Can We Please Stop Talking About Neutrality? Koppelman Between Scalia and
Peppers
PEPPERDINE L. REV. 1139 (2013).
The Mind as a Whole
ADAM SMITH REV. (2012).
Cost and Sentencing: Some Pragmatic and Institutional Doctrines
ED. SENT. R. 164(2012).
Election Law: Too Big to Fail? 56

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.L. & LEGAL MED. 157 (2010).

Dennis C. Rasmussen, *The Problems and Promise of Commercial Society: Adam Smith's Response to Rousseau* 13 ERASMUS J. POLITICS & ECONOMICS 104 (2010).

Richard Posner, *How Judges Think* 13 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 Jail (with Fred Rottnek) 6 (or, .6 Tw TJ 09) LE

We Should Not Elect Judges (with Matt Hall) **LOUIS BEACON** (Feb. 16, 2010).
Sex offenders: Lock 'em up and Throw Away the Key? **LOUIS BEACON** (January 19, 2010).
Let's take action on the need for ethics instruction. **NATIONAL JURIST** (January 2010).
Bring back the guillotine? **LOUIS BEACON** (September 22, 2009).
When is something morally offensive a crime? **LOUIS BEACON** (August 24, 2009).
Look What You Missed by Googling. **CHICAGO TRIBUNE** (August 9, 2009).
Sotomayor and the Art of the Judicial Deal

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 Maguire's Mangled 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-Pave 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, 2017.

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?

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

Comments on Sanford Levinson, Child 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; SMD, DePaul University School of Law, Jan. 24, 2014; Chicago Area 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 commentor, The New Religious Institutionalism, DePaul University Law School, Sept. 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 17, 2013.

The Supreme Court and American Criminal Law and The Death Penalty: Pro and Con, Shanghai International Studies University, May 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 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 7, 2012.

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

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

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

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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' Confrontation, (Missouri Lawyers Weekly, Sept. 21, 2021); Missouri Supreme Court to decide 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 the 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, Oct. 20, 2018)

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

AWARDS

Faculty excellence award (2016)

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

Thompson Coburn Article award (2021)