

V I T A

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Areas of research: First Amendment speech, press and religion; constitutional aspects of immigration and citizenship; separation of powers and executive authority; Fourteenth Amendment and Congressional authority

EDUCATION

LL.M., Comparative and International Law, Duke University, 1994
J.D., Highest Honors, Duke University, 1991
Willis Smith Award for Highest Cumulative Academic Average
Order of the Coif
Articles Editor, LAW AND CONTEMPORARY PROBLEMS, 1990-91

M.A., English Writing, Hollins College, 1975

B.A., English, Harvard College, 1972

TEACHING EXPERIENCE

Professor of Law, University of Baltimore, 2008 –

Orlando John & Marian H. Hollis Professor of Law, 2005 - 2008
Professor, 2003-2005
Associate Professor, 1997-2003
Assistant Professor, 1992-1997
University of Oregon School of Law

Visiting Professor of Law, Spring 2006
Washington College of Law
American University

Visiting Associate Professor, 2001-02
Duke University School of Law

Visiting Associate Professor, 1999-2000
Boston College Law School

OTHER EXPERIENCE

Contributing Writer and Supreme Court Correspondent
theatlantic.com, 2010 –

Legal Affairs Editor, 2015 -
Editor in Residence, Fall 2014
The Washington Monthly
Washington DC

Scholar in residence, Summer 2006
Caijing Magazine, Beijing

Law Clerk, 1991-92
The Hon. John D. Butzner
United States Court of Appeals, Fourth Circuit
Richmond VA

Staff Writer, 1978-81
The Washington Post
Washington DC

President (Publisher & Editor-in-Chief), 1971
The Harvard Crimson
Cambridge MA

HONORS AND AWARDS

Frances Fuller Victor Award for General Nonfiction, 2007
Literary Arts Oregon Book Awards

Orlando J. Hollis Distinguished Teaching Award, 2003
Chosen by School of Law Faculty to receive annual award for excellence in teaching.

Chair, Council on Ideas, 1994
Selected by Gihon Foundation to lead panel consisting of Nobel Laureate Arno Penzias and Pritzker Laureate Frank Gehry convened to discuss the major issues confronting American society.

Lillian Smith Award, 1978
Honored by Southern Regional Council for outstanding work of fiction about the South published in 1977.

SELECTED PUBLICATIONS

NONFICTION BOOKS

American Justice 2014: Nine Clashing Visions on the Supreme Court (Philadelphia: University of Pennsylvania Press, 2014).

American Epic: Reading the US Constitution (New York: Oxford, 2013). Finalist for 2013 Silver Gavel Book Award of the American Bar Association.

Peyote v. The State: Religious Freedom on Trial (revised ed., *To an Unknown God*, Norman, OK: 2009).

(as editor) *The First Amendment: Freedom of the Press--Its Constitutional History and the Contemporary Debate* (Amherst, NY: Prometheus, 2009).

Democracy Reborn: The Fourteenth Amendment and the Fight for Equal Rights in Post-Civil War America (New York: Henry Holt & Co., 2006, ppr. ed , 2007). Finalist for 2007 Silver Gavel Book Award of the American Bar Association. Finalist for 2007 Oregon Book Award.

To an Unknown God: Religious Freedom on Trial (New York: St. Martin's, 2001). Finalist for 2002 Silver Gavel Book Award of the American Bar Association.

Selected by Georgetown University Law Center as required reading for all entering students, Fall 2005.

NOVELS

The Floating Island: A Tale of Washington (Boston MA: Houghton Mifflin, 1985).

The Shad Treatment (New York: G.P. Putnam's Sons Inc., 1977, republished 1995 by University Press of Virginia).

LEGAL SCHOLARSHIP

"The Citizenship Clause: A "Legislative History." 60 AMERICAN U. L. REV. 331 (2011).

"Interpreting the Fourteenth Amendment: Two *Don'ts* and Three *Dos*." 16 WILLIAM & MARY BILL OF RIGHTS JOURNAL 433 (2007)

"Second Founding: The Story of the Fourteenth Amendment." Inaugural Hollis Lecture. 85 ORE. L. REV. 895 (2007).

"Some Animals are More Equal than Others: The Rehnquist Court and Majority Religion." 21 WASHINGTON UNIVERSITY JOURNAL OF LAW & POLICY 323 (2006).

"The Other *Sullivan* Case." 1 NEW YORK UNIVERSITY JOURNAL OF LAW & LIBERTY 783 (2005).

"'You Have Been in Afghanistan': A Discourse on the Van Alstyne Method." 54 DUKE L. J. 1555 (2005).

"Symposium: Bruce Springsteen and the American Lawyer: 'Meanness in This World.'" 14 WIDENER L. REV. 847 (2005).

(Translator) Ignacio Gomez Palacio, "With a Note in My Hand" (*El Pagaré en la Mano*), ORE. REV. INTL L. 304 (2005).

"The Undiscovered Country: Northern Views of the Defeated South and the Political Background of the Fourteenth Amendment." 13 TEMPLE POL. & CIV. RIGHTS L.REV. 110 (2004).

"The Antebellum Political Background of the Fourteenth Amendment." 67 LAW & CONTEMP. PROBS. 175 (2004).

"Speech: The Bill of Rights." 82 ORE. L. REV. 517 (2004).

"The Story of Al Smith: The First Amendment Meets Grandfather Peyote."
Michael Dorf, ed., *Constitutional Law Stories* (New York: Foundation Press,
2004).

"The Amish and the American Oyster." Donald Kraybill, ed., *The Amish and the
State* (Baltimore MD: Johns Hopkins University Press, 2d ed. 2003).

"To an Unknown God: The Hidden History of *Employment Division v. Smith*." 30
ARIZ. ST. L.J. 953 (1999).

"What We Talk About When We Talk About Free Exercise." 30 ARIZ. ST. L.J. 563
(1999).

"Wising Up: 'Son of Sam' Laws and the Speech and Press Clauses." 70 N.C. L.
REV. 493 (1992).

"Any Which Way But Loose: Interpretive Strategies and Attitudes Toward
Violence in the Evolution of the Anglo-American 'Retreat Rule.'" 1992 LAW &
CONTEMP. PROBS. 303.

LAW-ORIENTED ESSAYS AND BOOK REVIEWS

Column, *theatlantic.com*, Summer 2010- present.

<http://www.theatlantic.com/garrett-epps/>

Regular (1-3 times per week) 1500 word essays on the deliberations and decisions
of the Supreme Court and on constitutional issues in Congress, the states, and
the executive branch.

"Review: The Second Amendment: A Biography," by Michael Waldman.
Washington Post, May 30, 2014.

"POTUS v. SCOTUS." *The New York Times Book Review*, September 28, 2012.
Review of *The Oath: The Obama White House and the Supreme Court* by Jeffrey
Toobin.

"Reagan's Court v. the Libertarians." *The American Prospect*, September 2013. Essay-length review of books on the Roberts Court by Josh Blackman, Marcia Coyle, Andrew Koppleman, and Mark Tushnet.

"The Constitution: A Love Story." *The American Prospect*, November 2011. Essay-memoir on the importance of the Constitution and constitutional arguments in transformation of the segregated South.

"Beware Judges With A Vision." *The American Prospect*, October 2011. Historical essay about the perils of judicial overreaching from *Dred Scott* to *Roe v. Wade*.

"The Founders' Great Mistake." *The Atlantic*, January 2009. Essay on flawed draftsmanship of Article II of the Constitution and its role in encouraging lawlessness and overreaching by President Bush.

"We Need a Nobel Prize in Law." *The Nation Online*, October 10, 2007. Essay timed to Nobel Prize announcements arguing that the current crisis in the rule of law would be mitigated slightly by inclusion of law in the award categories.

"Vengeance is Brandon Mayfield's." Essay on District Court decision in *Mayfield v. United States* holding "sneak and peek" provisions of the USA PATRIOT Act unconstitutional. *salon.com*, Wednesday, October 3, 2007.

(co-authored with Dahlia Lithwick). "The Sphinx of Sacramento: Will the Real Anthony Kennedy Please Stand Up?" *slate.com*, April 27, 2007. Essay contrasting respectful rhetoric of Justice Kennedy's gay-rights opinions with dismissive attitude toward women shown by his opinion in *Gonzales v. Carhart*.

"Don't Do It, Justices." "Outlook," *The Washington Post*, Sunday, October 24, 2004. Essay warning that repeated involvement of Supreme Court in presidential elections will corrode democracy and standing of the court.

"Opening Arguments." *The Washington Post Book World*, March 30, 2003. Review of *Law, Pragmatism and Democracy* by Richard A. Posner.

"Deep Six." *The New York Times Book Review*, August 25, 2002. Review of *Desperately Seeking Certainty: The Misguided Quest for Constitutional Foundations* by Daniel A. Farber and Suzanna Sherry.

"Democracy's Blueprints." *The American Prospect*, December 17, 2002. Review of *Designing Democracy: What Constitutions Do* by Cass Sunstein.

"Judgment Calls." *The Washington Post Book World*, November 18, 2001. Review of *The Rehnquist Choice: The Untold Story of the Nixon Appointment That Redefined The Supreme Court* by John W. Dean and *Silent Justice: The Clarence Thomas Story* by John Greenya.

"The Opportunist's Friend (and Foe): State's Rights." *The New York Times*, November 20, 2001. Commentary on historical debate on federalism and federal power.

"Defender of Freedom." *The Washington Post*, July 27, 1997. Essay/obituary for Justice William Brennan.