

CHAD W. FLANDERS

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EMPLOYMENT

Assistant professor of law, St. Louis University School of Law (Fall 2009-) (tenure-track)
Courses: Criminal Law; First Amendment; Religion and the Constitution, Election Law;
Philosophy of Law
Service: 1843 Scholarship Committee, Clerkship Committee, Self-Study Committee

Visiting Professor of Law, DePaul University School of Law (2013-2014)
Courses: Criminal Procedure; Criminal Law

Fulbright Scholar, Nanjing University Law School, China (2012-2013)
Courses: Criminal Law; Philosophy of Law; The First Amendment; The Death Penalty.
Service: Coach, Jessup International Moot Court Team. Assisted arbitration and
international humanitarian law moot court teams at Nanjing University and at the Johns
Hopkins-Nanjing Center, Nanjing, China. Judge at Shanghai Arbitration Moot Court
competition.

Visiting Lecturer, Beijing Foreign Studies University School of Law (Summer 2013)
Week-long lecture course on “The American Legal System”

Visiting Attorney, Appeals and Statewide Defense, Office of Public Advocacy, Anchorage,
Alaska (Summer-Fall 2011) (briefed and argued two cases before the Alaska Court of
Appeals, *State v. Phillips*, 271 P.3d 457 (Alaska App. 2012) and *State v. Lawrence*, 269
P.3d 672 (Alaska App. 2012); drafted cert. petition) (Summer 2012)
(co-authored reply brief in *State v. Miller*; assisted in drafting opening brief in *E.S. v.
State*)

Law Clerk, Honorable Michael McConnell, Tenth Circuit Court of Appeals (2008-09)
Law Clerk, Honorable Warren Matthews, Supreme Court of Alaska (2007-08)

Summer Associate, WilmerHale (2006)
Landlord Tenant Clinic, Yale Law School (2005)

EDUCATION

Yale Law School, New Haven, CT.

J.D., 2007
Editor & Senior Editor, *Yale Law Journal* (2005-2007)
Submissions chair, *Yale Journal of Health Policy, Law, and Ethics* (2006-2007)
Teaching fellow for Shelly Kagan (philosophy)
Research assistant for Jules Coleman, John Gardner, William Eskridge, Anthony Kronman.

University of Chicago, Chicago, IL.

M.A., Ph.D. in Philosophy, 2004

Dissertation, "Responsibility and Objectivity."

Committee: Charles Larmore, Martha Nussbaum (chairs), Dan Brudney (reader)

Teaching assistant for Professors Alan Gewirth, Charles Larmore, Jacqueline Bhabha.

Research assistant for Martha Nussbaum, Jean-Luc Marion.

Hillsdale College, Hillsdale, MI.

B.A., *summa cum laude*, in Philosophy (with honors) and Classics, 1997 (second in class)

PUBLICATIONS

Articles, Essays, and Book Chapters

Adam Smith's Jurisprudence: Resentment, Punishment, and Justice (forthcoming in volume for Princeton University Press).

The Limits of Retribution, B.Y.U. L. REV. (forthcoming 2014).

Pardons and the Theory of the "Second Best," FLA. L. REV. (forthcoming 2013).

The Case Against the Case Against the Death Penalty, NEW CRIM. L. REV. (forthcoming 2013).

In Defense of Punishment Theory, and Contra Stephen, 10 OHIO ST. 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 RATIO JURIS 180 (2012).

What Do We Want in a Presidential Primary? An Election Law Perspective, 44 U. 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*, 2013 WL 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).

Bentham on Stilts: The Bare Relevance of Subjectivity to Retributive Justice (with Dan Markel), 98 CAL. L. REV. 4 (2010).

Toward a Theory of Persuasive Authority, 62 OKLA. L. REV. 55 (2009).

The Possibility of a Secular First Amendment, 26 QUINNIPIAC L. REV. 257 (2008).

How (and Why) to Think About Voter Fraud, 41 CREIGHTON L. REV. 93 (2007).

Cited in SAMUEL ISSACHAROFF ET AL. THE LAW OF DEMOCRACY 25 (2008 & 2010 supplements).

Deliberative Dilemmas: A Critique of Deliberation Day from the Perspective of Election Law, 23 J. LAW & POL. 147 (2007).

Comment, *Bush v. Gore and the Uses of "Limiting,"* 116 YALE L.J. 1159 (2007)

Quoted in U.S. v. Dayton, 2011 WL 1227837, at *12 (10th Cir., Apr 4, 2011)

Cited in Herbert v. U.S., 2007 WL 3020494, at *4 (D.S.C. Oct 12, 2007)
Cited in DANIEL LOWENSTEIN ET. AL., ELECTION LAW: CASES AND MATERIALS 306 (2008)
Quoted in State ex rel. League of Women Voters v. Herrera, 203 P.3d. 94, 98 (N.M. 2009).
Shame and the Meanings of Punishment, 54 CLEV. ST. L. REV. 609 (2006)
Please Don't Cite This Case!: The Precedential Value of Bush v. Gore, 116 YALE L.J. POCKET PART 141 (2006).
Discussed by Orin Kerr, Does *Bush v. Gore* Have Precedential Value? THE VOLOKH CONSPIRACY (November 20, 2006), <http://volokh.com/posts/1164087982.shtml>.
'This Irregularity of Sentiment': Adam Smith on Moral Luck, NEW VOICES ON ADAM SMITH (Eric Schliesser and Leonidas Montes, eds., 2006).
 Preface & ed. (with Martha Nussbaum), PHILOSOPHICAL TOPICS (Fall 2002) (on "Global Inequalities").

Contributions to Symposia

What is the Value of Participation?, OK. L. REV. (forthcoming 2013).
The Trumpet Player's Lament: Reconceptualizing Civil Gideon (with Alex Muntges) U.D.C. L. REV.) (forthcoming 2013).
Can We Please Stop Talking About Neutrality? Koppelman Between Scalia and Rawls, 39 PEPPERDINE L. REV. 1139 (2013).
The Mind as a Whole, 7 ADAM SMITH REV. (2012).
Cost and Sentencing: Some Pragmatic and Institutional Doubts, 24 FED. SENT. R. 164 (2012).
Election Law: Too Big to Fail? 56 ST. LOUIS L. J. 775 (2012).
Guilty Bystanders, 19 YALE J. LAW & FEM. 291 (2007).

Responses

More on Veils: A Reply to Muller and Levitt, 65 FL. L. REV. FORUM 1 (2013).
Spelling Murkowski: The Next Act, Reply to Fishkin and Levitt, 28 ALASKA L. REV. 49 (2011).
Beyond Raw Experience: Getting Retributive Justice Right, 99 CAL. L. REV. 605 (2011) (with Dan Markel and David Gray).
Can Retributivism Be Progressive? A Reply to Gray and Huber, 70 MD. L. REV. 166 (2010).

Book Reviews

Brian Leiter, *Why Tolerate Religion?* J. CHURCH & STATE (forthcoming 2013).
 Paul Oslinger, ed. *Adam Smith as Theologian*. THE EUROPEAN LEGACY (June 28, 2013).
 Michael Zimmerman, *The Immorality of Punishment*. 122 ETHICS 641 (2012).
 Douglas Laycock, 2 *Religious Liberty: Free Exercise*, J. CHURCH & STATE 281 (2012).
 Jason Brennan, *The Ethics of Voting*. NOTRE DAME PHIL. REV. (Dec. 16, 2011).
 Tom L. Beauchamp, *Standing on Principles: Collected Essays*, 32 J. LEGAL MED. 337 (2011).
 Douglas Laycock, 1 *Religious Liberty: Overviews and History*, 52 J. CHURCH & STATE 589 (2010)
 Steven H. Shiffrin, *The Religious Left and Church-State Relations*, 20 L. & POL. BOOK REV. (2010).
 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. LEGAL MED. 157 (2010).

Dennis C. Rasmussen, *The Problems and Promise of Commercial Society: Adam Smith's Response to Rousseau*, 3 ERASMUS J. POLITICS & ECONOMICS 104 (2010).
 Richard Posner, *How Judges Think*, 3 LAW & HUMANITIES 8 (2009).
 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 2012 American Elections: What Just Happened? (forthcoming in volume published by Hong Kong University Press).
 Interviews Before Execution *and the Modern Chinese Death Penalty* (with Yiqing Wang), FORDHAM INTL. L. REV. ONLINE (forthcoming 2013).
 “People Just Don’t Do That!” Curb Your Enthusiasm *and the Virtue of Civility* (with David Svolba) in CURB YOUR ENTHUSIASM AND PHILOSOPHY (Mark Ralkowski, ed. 2012).
The White Primaries and Bush v. Gore in OXFORD ENCYCLOPEDIA OF AMERICAN POLITICAL, POLICY, AND LEGAL HISTORY (2012).
Death Takes a Road Trip in CHUCK KLOSTERMAN AND PHILOSOPHY (Seth Vannatta, ed. 2012).
Suddenly, The Death Penalty’s All the Rage, ST. LOUIS BEACON (June 5, 2013).
Scalia, “Racial Entitlement,” and the Voting Rights Act, PROVIDENCE JOURNAL (Feb. 28, 2013).
Big Money Didn’t Lose, ST. LOUIS BEACON (Nov. 27, 2012).
Pain, Suffering, and the Death Penalty, ST. LOUIS BEACON (August 28, 2012).
Of Castles, Cars, Road Rage, and Guns, ST. LOUIS BEACON (June 15, 2012).
Don’t Ditch the Caucus System (with Christopher Jones), ST. LOUIS POST-DISPATCH (Mar. 21, 2012).
Religious Liberty and the Contraceptives Debate, JURIST (Mar. 19, 2012).
Super PACS Unleash Politics of the Weird, POLITICO (Mar. 7, 2012).
Missouri’s Pointless, Expensive, “Beauty Pageant,” ST. LOUIS BEACON (Jan. 21, 2012).
Prison Bills Come Due, ST. LOUIS BEACON (November 16, 2011).
Facebook, Teachers, and the Law, ST. LOUIS BEACON (August 22, 2011).
Voter ID: Still Wrong After All These Years (with Jamie Rodriguez), ST. LOUIS BEACON (April 18, 2011).
Ranking the Rankings: The Best Law School for You, THE NATIONAL JURIST (online edition) (March 29, 2011).
When is a home not a home? MO. LAWYERS WEEKLY 21 (Feb. 14, 2011).
The Death Penalty’s Slow Death, ST. LOUIS BEACON (Jan. 31, 2011).
 ‘Controlled by a Creed?’ CONVERSATIONS ON JESUIT HIGHER EDUCATION: Vol. 39, Article 9 (Jan. 2011).
The Future for Juveniles Denied Parole, ST. LOUIS POST-DISPATCH (Dec. 29, 2010).
Missouri’s Strange New Self-Defense Law (with Sarah Pohlman), ST. LOUIS POST-DISPATCH (October 12, 2010).
The Cost of Justice, ST. LOUIS BEACON (September 17, 2010).
Reprinted in 12 SAINT LOUIS BRIEF 21 (2011).
Local Knowledge Lost with Uniform Bar, MISSOURI LAWYERS WEEKLY 14 (May 23, 2010).

A Third Way of Selecting Judges (with Grant Gaumer), ST. LOUIS POST-DISPATCH (May 12, 2010)
Teaching State Criminal Law to 1Ls, THE LAW TEACHER (Spring 2010).
We Should Not Elect Judges (with Matt Hall) ST. LOUIS BEACON (Feb. 16, 2010).
Sex offenders: Lock 'em up and Throw Away the Key? ST. LOUIS BEACON (January 19, 2010).
Let's take action on the need for ethics instruction, THE NATIONAL JURIST (January 2010).
Bring back the guillotine? ST. LOUIS BEACON (September 22, 2009).
When is something morally offensive a crime? ST. LOUIS BEACON (August 24, 2009).
Look What You Missed by Googling, CHICAGO TRIBUNE (August 9, 2009).
Sotomayor and the Art of the Judicial Deal, ST. LOUIS POST-DISPATCH (July 15, 2009).
Political Process Worked – This Time, Anyway (with Michael Neblo), MILWAUKEE J.-SENTINEL (April 27, 2008).
Why Make it Hard to Vote? (with Michael Neblo), MILWAUKEE J.-SENTINEL (Jan. 13, 2008).
Standing Above the Law (with Robert Wiygul), SAN FRANCISCO CHRON. (July 12, 2007).
Defusing Primary Primacy, HARTFORD COURANT (April 13, 2007).

Occasional reviewer for *inyourspeakers.com* (2010-11) (author of over 30 reviews) and for *Delusions of Adequacy* (2011-13) (author of 17 reviews), both independent music blogs.

In Progress

The Epistemology of Evolving Standards
What is Wrong with Mass Incarceration?
Does Punishment Require Suffering?
 Review, *Ballot Box Democracy*
Public Reason and Animal Rights (under consideration for conference volume)
Referenda and Initiatives (for HANDBOOK ON MISSOURI ELECTION LAW).
Punishment and Political Philosophy
Reasonable Cultural Pluralism? Rawls and the Claims of Culture

RECENT TALKS & PRESENTATIONS

Comments on Sanford Levinson, Childress 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
The Fourth Amendment and Drug Sniffing Dogs, Drug Sniffing Dogs Panel, DePaul University Law School, Oct. 2, 2013.
Co-organizer and commenter, The New Religious Institutionalism, DePaul University Law School, Sept. 26-27, 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 16-17, 2013.
The Supreme Court and American Criminal Law and *The Death Penalty: Pro and Con*, Shanghai International Studies University, May 6-7, 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 18-19, 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 6-7, 2012.

Why Have Elections? and *The Death Penalty: What Would You Decide?* Central University of Finance and Economics (Beijing), December 5-6, 2012.

The American Election: What Just Happened? and *The Supreme Court and Judicial Review*, Shanghai University of Finance and Economics (Shanghai), November 21-22, 2012.

American Legal Education: An Overview, *The Supreme Court's Recent Term (2011-2012)* and *The Death Penalty: A Review of the Major Arguments*, Beijing University of Chemical Technology (Beijing), November 7-9, 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, Half-Baked 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, Minnesota 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

The First Amendment: Recent Debates and Controversies, Public Lecture, Mini Missouri Law School, March 16, 2011

The Impact of Citizens United, Debate with Herbert Von Spakovsky, September 29, 2010, Saint. Louis University School of Law..

Making Your Vote Count: Election Law in Missouri, Public Lecture, Mini Missouri Law School, September 22, 2010.

Public Reason as Idea and Ideal, Canadian Political Theory Association Annual Meeting, June 4, 2010.

The Mutability of Public Reason, Washington University Political Theory Workshop, April 9, 2010; Saint Louis University School of Law Philosophy and Law Roundtable, April 23, 2010; Religion and Law Roundtable, Brooklyn Law School, June 24, 2010.

The One State Solution to Teaching Criminal Law, Law and Society Association Annual Meeting, May 27, 2010

Is Subjectivity Relevant to Retributive Justice? Central States Law School Conference, Capital Law School, October 24, 2009.

PROFESSIONAL MEMBERSHIPS

Alaska Bar (active, out of state)

10th Circuit Court of Appeals Bar

American Philosophical Association

Canadian Political Science Association

Midwest Political Science Association

REFEREE

Mind; Ethics; Law and Philosophy; Constellations; International Criminal Law Review; Criminal Law and Philosophy

SELECTED MEDIA APPEARANCES

Now What? After Zimmerman's Acquittal, Few Legal Options (St. Louis Beacon, July 15, 2013); *Insight on Scalia's "Racial Entitlement" Remark*, (The Maddow Blog March 6, 2013); *Free Speech, Facebook, and a Public University* (St. Louis Beacon, Nov. 3, 2011); *New Missouri 'Facebook Bill': Let school districts make their own rules* (Christian Science Monitor, Sept. 8, 2011); *Can Facebook get teachers fired?* (Christian Science Monitor, Aug. 23, 2011); *Analysis: Roberts court displays robust support of free speech, especially for monied interests* (St. Louis Beacon, June 29, 2011); *Analysis: Funeral Protests are Protected Speech* (St. Louis Beacon, March 6, 2011); *Chunks out of the wall separating church and state* (St. Louis Beacon, April 30, 2010); *Bush v. Gore Set to Outlast Its Beneficiary* (N.Y. Times, Dec. 23, 2008).