

DANIEL SCOTT HARAWA

Washington University in St. Louis School of Law
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Academic Appointments

Assistant Professor of Practice, Director, Appellate Clinic, Washington University School of Law, 2019-Present

Adjunct Professor of Law, University of District of Columbia, 2015-2017

Education

J.D., *cum laude*, Georgetown University Law Center, 2012

B.A., *magna cum laude*, Sociology & American Studies, University of Richmond, 2009

Legal Experience

NAACP Legal Defense and Educational Fund, Inc., Washington, DC

Of Counsel, 2019-Present

- Advise on appellate strategy and criminal justice and policing reform campaigns. Draft briefs before the Supreme Court, federal courts of appeals, and state courts of last resort explaining the racial implications of major cases. Represent Black client sentenced to death in Alabama, where race-based discrimination tainted his case.

Assistant Counsel, 2017-2019

- Litigated racial justice issues before the Supreme Court, United States Courts of Appeals, and state supreme courts, including qualified immunity, discrimination in jury selection, voting discrimination, the discriminatory application of the death penalty, and discrimination against immigrant communities. Member of voting rights litigation team challenging Alabama's discriminatory photo ID law. Counsel in school desegregation cases ensuring schools in the South continue to follow desegregation plans implemented after *Brown v. Board of Education*.

Public Defender Service for the District of Columbia, Washington, DC

Appellate Staff Attorney, 2014-2017

- Briefed and argued cases before the D.C. Court of Appeals on a wide range of issues, including constitutional claims, evidentiary disputes, and novel questions of statutory interpretation. Consulted with trial attorneys on legal strategies such as issue preservation and litigated motions in D.C. Superior Court.

Covington & Burling, LLP, Washington, DC

Litigation Associate, 2013-2014

- Advised Fortune 100 companies on consumer product safety matters and represented them before the Consumer Product Safety Commission. Counseled corporate clients on employment-related matters. Maintained active pro bono practice, including successfully briefing and arguing prisoner civil rights case in the United States Court of Appeals for the Fourth Circuit.

United States Court of Appeals for the Fourth Circuit, Richmond, VA

Law Clerk to the Honorable Roger L. Gregory, 2012-2013

Publications

Law Review Articles

The False Promise of Peña-Rodriguez, 109 CALIFORNIA LAW REVIEW (forthcoming 2021)

- In *Peña-Rodriguez v. Colorado*, the Supreme Court created a racial bias exception to the general rule that courts are prohibited from hearing evidence of what transpired during jury deliberations. This article argues that the standard that the Supreme Court set for this exception to apply is far too onerous and will have the effect of shielding most forms of racism from review.

Sacrificing Secrecy, 55 GEORGIA LAW REVIEW (forthcoming 2021)

- The practice of juries deliberating in secret dates back to medieval England, and time has shown that the secrecy has allowed juries to convict defendants for discriminatory reasons. This article calls for a reexamination of secret jury deliberations given that the practice has allowed bias to influence the administration of justice.

Black Redemption, 48 FORDHAM URBAN LAW JOURNAL (forthcoming 2021) (invited essay)

- Rehabilitation is supposed to be a core goal of the criminal legal system, yet Black defendants are disproportionately deemed habitual offenders, sentenced to life in prison for crimes committed as children, and sentenced to death. This essay calls for a reimagining of Eighth Amendment jurisprudence to prohibit the persistent devaluing of Black lives that plagues the criminal legal system.

How Much is Too Much? A Test to Protect Against Excessive Fines, 81 OHIO STATE LAW JOURNAL 65 (2020)

- Fines and forfeitures are the most common form of punishment in America, and they are disproportionately imposed against Black and Brown people. This article argues that courts should consider racial disparities in the

imposition of financial punishment when deciding whether financial punishment is excessive in violation of the Eighth Amendment.

Manning v. Caldwell – A Harbinger?, 71 SOUTH CAROLINA LAW REVIEW (forthcoming 2020) (essay)

- The Fourth Circuit has historically been regarded as a collegial court. This essay questions whether this will hold true given the recent appointees to the court.

Social Media Thoughtcrimes, 35 PACE LAW REVIEW 366 (2014) (invited symposium article)

- People are increasingly being investigated, arrested, and jailed for social media postings. This article maintains that most online speech should be constitutionally protected and that First Amendment jurisprudence needs to be revamped to account for the social media world.

The Post-TSA Airport: A Constitution-Free Zone?, 41 PEPPERDINE LAW REVIEW 1 (2013)

- After 9/11, airport security changed drastically. This article situates modern airport security measures within a larger constitutional framework and argues that courts must be vigilant in ensuring that national security interests do not lead to the erosion of constitutional rights.

A Numbers Game: The Ethicality of Law School Reporting Practices, 24 GEORGETOWN JOURNAL OF LEGAL ETHICS 607 (2011) (student note)

- After the 2008 recession, some law schools inflated their post-graduation employment numbers to attract students. This note exposes the ways in which law schools violated their ethical obligations to their students.

Book Chapter

The Black Male, TRAYVON MARTIN, RACE, AND AMERICAN JUSTICE: WRITING WRONG (2014)

- As part of a collection of essays contemplating race in the wake of Trayvon Martin's murder, this essay discusses the perceived dangerousness of Black men and boys, and how it has been a consistent trope throughout American history.

Select Commentary

[*Senate Bill Would Disempower Elected Prosecutor, Disenfranchise St. Louis Voters*](#), ST. LOUIS AMERICAN, May 1, 2020 (with Kimberly Norwood)

[*DC Must Protect its Inmates from Coronavirus*](#), WASHINGTON POST, Apr. 8, 2020 (with Ben Miller)

[*Democrats Should Stop Saying Some People Should Die in Prison*](#), SLATE, Jan. 22, 2020 (with Ben Miller).

[Why the Attorney General's Concern about Crime Victims and their Families Rings Hollow](#), THE APPEAL, Jan. 6, 2020 (with Ben Miller)

[Why America Needs to Break its Addiction to Long Prison Sentences](#), POLITICO MAGAZINE, Sept. 3, 2019 (with Ben Miller)

[The Supreme Court Must Rule that Juries Can't Sentence a Man to Death Because He is Gay](#), SLATE, Apr. 2, 2019

Notable Litigation

Supreme Court of the United States

McMillan v. Alabama, U.S. No. 20-193 (2020)

- Filed an amicus brief arguing that an Alabama law that permitted judges to override a jury's recommendation for life in prison and sentence a defendant to death was unconstitutional because it allowed racial bias to influence capital sentencing.

Torres v. Madrid, U.S. No. 19-292 (2020)

- Filed an amicus brief arguing that police use of weapons during a traffic stop constitutes a Fourth Amendment seizure, particularly when considering police violence perpetrated against Black people.

Dept. of Homeland Security v. Board of Regents of the University of California, 140 S. Ct. 1891 (2020)

- Filed an amicus brief arguing that the Administration's rescission of DACA was motivated by anti-Latinx bias and therefore violated the Equal Protection Clause of the Fourteenth Amendment.

Ramos v. Louisiana, 140 S. Ct. 1390 (2020)

- Filed an amicus brief arguing that the racist history of Louisiana's non-unanimous jury provision underscores its unconstitutionality, and arguing that the law undermined the full political participation of African Americans.

Timbs v. Indiana, 139 S. Ct. 682 (2019)

- Filed an amicus brief arguing that the Court should consider how fines are disproportionately imposed against African Americans and the history of using financial punishment to subordinate Black people when deciding whether the Excessive Fines Clause of the Eighth Amendment should apply to the States.

Stevens Rucker v. Frenz, U.S. No. 18-684 (2019)

- Filed a certiorari petition on behalf of Patti-Stevens-Rucker, whose son—a Black military veteran—was shot and killed by police, arguing that qualified immunity should not shield the officers.

Callwood v. Jones, U.S. No. 17-1569 (2018)

- Filed a certiorari petition on behalf of Gladys Callwood, whose son—a young Black man suffering a mental health crisis—was tased to death by police, arguing that qualified immunity should not shield the officers.

Federal Courts of Appeals

Greater Birmingham Ministries v. Merrill, 966 F.3d 1202 (11th Cir. 2020)

- Represented community organizations and Black and Latinx voters challenging Alabama’s photo ID requirement to vote as discriminatory in violation of the Voting Rights Act and Fourteenth Amendment.

United States v. Bess, 80 M.J. 1 (C.A.A.F. 2020)

- Filed an amicus brief arguing that the military’s process of convening court-martials is unconstitutional because it allows for the purposeful exclusion of Black service members.

Norman Brown v. Precythe, No. 19-2910 (8th Cir. 2020)

- Filed an amicus brief arguing that Missouri’s procedures for resentencing juveniles sentenced to life in prison without parole were unconstitutional and that the procedures have led to the over incarceration of Black youth.

State Supreme Courts

Lamar Johnson v. State of Missouri, No. SC 98303 (Mo. 2020)

- Represented the Circuit Attorney for the City of St. Louis, arguing that she has the authority to remedy a wrongful conviction.

People v. Miles, 464 P.3d 611 (Cal. 2020)

- Filed an amicus brief arguing that prosecutors used race-neutral voir dire questions that were specifically designed to target and remove Black potential jurors.

Robinson v. United States, 142 A.3d 565 (D.C. 2016)

- Represented defendant arguing that police interrogation tactics undermined the importance of an attorney and thus violated the Fifth Amendment.

Select Presentations

2020: *The False Promise of Peña-Rodriguez*, Chicagoland Junior Scholars Conference • *The False Promise of Peña-Rodriguez*, The Clinical Law Review Writers Workshop, New York University School of Law • *Review of the Supreme Court’s Term, Criminal Cases*, American Bar Association Criminal Justice Section • *LGBTQ Clinicians and the Fight for Racial Justice*, AALS Conference on Clinical Legal Education • *Valuing Black Lives*, The Long Summer of 2020: Race and Death in the United States, Washington University School of Law • *Bias in the Jury Box*, John

Mercer Langston Writing Workshop • *Criminal Justice Ethics Discussions*, Fordham Law School • *Sacrificing Secrecy*, We the Jury Symposium, Louisiana State University Paul M. Herbert Law Center

2019: *Sacrificing Secrecy*, American Bar Association Criminal Justice Roundtable • *Sacrificing Secrecy*, New England Clinical Conference • *How Much is Too Much? A Test to Protect Against Excessive Fines*, The Clinical Law Review Writers Workshop, New York University School of Law

2018: *Accountability for Unconstitutional Policing: Implementing Consent Decrees, Challenging Qualified Immunity, and Reimagining Public Safety*, NAACP Legal Defense & Educational Fund, Inc., Civil Rights Training Institute • *Religious Freedom vs. Anti-Discrimination Laws: Can Rights be Reconciled?*, Hispanic National Bar Association LGBT Summit • *Religious Freedom vs. Ant-Discrimination Laws: Can Rights be Reconciled?*, New York City Legislative Council

Select Media Appearances

Business Owners Call for Police Accountability, The Gateway Podcast, July 6, 2020

The Cruel Roadblocks to Getting Innocent People Out of Prison, The Appeal Podcast, Dec. 5, 2019

The Fight for the 14th, Bound by Oath Podcast, Dec. 19, 2018

Have been quoted or litigation has been featured in various news outlets, including: New York Times, NBC News, Associated Press, Forbes (Named Top 30 under 30 in Law, 2016), Reuters, USA Today, Law 360, National Law Journal, Bloomberg Law, NPR, St. Louis Public Radio, St. Louis Post-Dispatch, St. Louis American, Intercept, Washington Blade, among others.

Other

Bar Admissions: District of Columbia (2013); Missouri (2019)

Court Memberships: Supreme Court of the United States; United States Courts of Appeals for the Fourth, Sixth, Seventh, Eighth, Ninth, and D.C. Circuits; United States Court of Appeals for the Armed Forces; United States District Court for the District of Columbia