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PROFESSIONAL HISTORY:

Benjamin N. Cardozo School of Law, Yeshiva University
Professor of Law: 2001 – present
Associate Professor of Law: 1999 – 2001
Assistant Professor of Law: 1996 – 1999

New York University School of Law
Visiting Adjunct Professor of Law: 2007

Fordham University School of Law
Visiting Adjunct Professor of Law: 2005

Columbia University Law School
Visiting Adjunct Professor of Law: 2004

University of Michigan Law School
Visiting Professor of Law: 2002 – 2003

Attorney in Private Practice: 1993 – 1996

Office of the Prosecuting Attorney
Pierce County, Washington
Deputy Prosecuting Attorney: 1989 – 1993

Washington State Supreme Court
Chambers of Hon. Fred Dore
Law Clerk: 1987 – 1989

Culp, Dwyer, Guterson and Grader
Seattle, Washington
Associate: 1984-1987

EDUCATION:

Cornell Law School
J.D., 1984

Washington University in St. Louis
A.B. *summa cum laude*, 1981

NOTABLE PUBLICATIONS:

Virtue And Inculpation, 108 HARV. L. REV. 1423 (1995)

Solving The Apprendi *Puzzle*, 90 GEO. L.J. 387 (2002)

Solving the Williams *Puzzle*, 105 COLUM L. REV. 1048 (2005)

Custodial Compulsion, 99 BOSTON UNIVERSITY LAW REVIEW 523 (2019)

Theistic Illiberal Constitutionalism: Review of Adrian Vermeule, Common Good Constitutionalism 63 UNIVERSITY OF LOUISVILLE LAW REVIEW *1 (2024)*

ALL PUBLICATIONS:

Science, Freedom of Conscience, and the Establishment Clause, 13 U. PUGET SOUND L. REV. 356 (1989)

The Doctrine Of Lesser Included Offenses, 16 U. PUGET SOUND L. REV. 185 (1992)

Virtue And Inculpation, 108 HARV. L. REV. 1423 (1995)

Virtue And Criminal Negligence, 1 BUFF. CRIM. L. REV. 431 (1998)

The Dead End Of Deterrence, And Beyond, 41 WM. & MARY L. REV. 943 (2000)

Rethinking The Penalty Phase, 32 ARIZ. ST. L.J. 1195 (2000)

Law, Economics, And The Skeleton Of Value Fallacy (Review Essay: Behavioral Law And Economics edited by Cass R. Sunstein), 89 CAL. L. REV. 537 (2001)

Homicide In Aretaic Terms, 6 BUFF. CRIM. L. REV 97 (2002)

Solving The Apprendi Puzzle, 90 GEO. L.J. 387 (2002)

Street Crime, Corporate Crime, And Theories Of Punishment: A Response To Brown, 37 WAKE FOREST L. REV. 1 (2002)

Correspondence: What Is And Is Not Pathological In Criminal Law, 101 MICH. L. REV. 811 (2002)

Nietzsche and Aretaic Legal Theory, 24 CARDOZO L. REV. 563 (2003)

Harris, Ring*, and the Future of Relevant Conduct Sentencing*, 15 FED. SENT. RPTR. 88 (2003)

Dignity and Desert in Puni shment Theory, 27 HARV. J. L. & PUB. POL'Y 33 (2003)

On Aristotelian Criminal Law: A Reply to Duff, 18 NOTRE DAME J. L., ETHICS & PUB. POL'Y 465 (2004)

Duress Is Not A Justification, 2 OHIO ST. J. CRIM. L. 303 (2004)

Fletcher's Rethinking*: A Memoir*, 39 U. TULSA L. REV. 803 (2004)

On Commonplace Punishment Theory, 2005 CHI. L. FORUM 437 (2005)

Is Strict Liability Rape Defensible? in DEFINING CRIMES: THE THEORY OF THE CRIMINAL LAW'S SPECIAL PART (R.A. Duff and Stuart P. Green, eds., Oxford University Press, 2005)

Solving the Williams *Puzzle*, 105 COLUM L. REV. 1048 (2005)

Liberalism, Normative Expectations, and the Mechanics of Fault (solicited review of Jeremy Horder, Excusing Crime), 69 MODERN L. REV. 462 (2006)

On Aristotelian Criminal Law: A Reply to Duff, in VIRTUE JURISPRUDENCE (Colin Farrelly and Lawrence B. Solum, eds., Palgrave-MacMillan, 2007)

The Jurisprudence of Punishment, 48 WILLIAM & MARY L. REV. 1793 (2007)

The Continuity of Justification Defenses, 2009 UNIV. ILL. L. REV. 627

Provocation at Face Value, 95 MARQ. L. REV. 409 (2011)

Motivating Intentions, Reciprocal Specification of Ends, and the Assessment of Responsibility, in LAW, VIRTUE AND JUSTICE, (Ho Hock Lai and Amalia Amaya, eds., Hart Publishing, 2012)

On "The Nature and Function of Criminal Theory" in FLETCHER'S ESSAYS ON CRIMINAL LAW (Russell Christopher, ed., Oxford University Press, 2013)

Why Instrumentalism Matters (review of Alon Harel, WHY LAW MATTERS), 2 CRITICAL ANALYSIS OF LAW: AN INTERNATIONAL AND INTERDISCIPLINARY LAW REVIEW (http://cal.library.utoronto.ca/index.php/cal/article/view/25703/18851) (2015)

Justice and The Intellectual Virtues, in PERSPECTIVES ON CHARACTER (Iskra Fileva, editor, Oxford University Press, 2016)

Custodial Compulsion, 99 BOSTON UNIVERSITY LAW REVIEW 523 (2019)

Coercion, Compulsion, and Miranda, 47 SEARCH AND SEIZURE LAW REPORT 41 (2020)

Majestic Law and the Subjective Stop, 51 SETON HALL LAW REVIEW 669 (2021)

Entitlement to Punishment, 69 DRAKE LAW REVIEW 603 (2021)

Theistic Illiberal Constitutionalism: Review of Adrian Vermeule, Common Good Constitutionalism 63 UNIVERSITY OF LOUISVILLE LAW REVIEW 1 (2024)

A Model Defense of Due Process Balancing 2024 MICHIGAN STATE LAW REVIEW 875 (2025)

The Free Exercise of Religion as a Privilege, 42 GEORGIA STATE LAW REVIEW 307 (2026)

ICE's Triple Bind, ___ UNIVERSITY OF PENNSYLVANIA JOURNAL OF LAW AND SOCIAL CHANGE ___ (2026)

INVITED PRESENTATIONS:

What's on the Docket: A Supreme Court Preview, Floersheimer Center for Constitutional Democracy, Cardozo School of Law, October 3, 2019

Why Instrumentalism Matters, Conference on Alon Harel's WHY LAW MATTERS, Rutgers-Newark Law School, 2015

Eichmann's Defense of Conscience, The Eichmann Trial at 50, presented by The Asia Pacific Centre for Military Law, Melbourne Law School, October 14-15, 2011

Summary Corporal Punishment by Electrocution, Association of Legal and Social Philosophers, Annual Conference, Warwick University, Coventry, England, July 4-6, 2011

A Theory of Just Punishment (Chapters One through Four), New York Area Criminal Law Workshop, April, 2011

Motivating Intentions, Reciprocal Specification of Ends, and the Assessment of Responsibility, XXIV World Congress of Philosophy

of Law and Social Philosophy,
Beijing, September 15-20, 2009

Hart's Aspiration, or What is A Normative Theory of Punishment?, New York Area Criminal Law Workshop, April, 2009

The Jurisprudence of Punishment, Conference on Law and Morality, William & Mary School of Law, March, 2006

Solving the Williams Puzzle, Conference on the States' Response to *Blakely*, Columbia University Law School*,* February, 2005

On Commonplace Punishment Theory, University of Chicago Law School, 2005

Is Strict Liability Rape Defensible?, Conference on The Theory of the Criminal Law's Special Part, Louisiana State University Law Center, March 6, 2004

A Specification to Coherence Theory of Punishment's Justification, Centre for Law and Society, University of Edinburgh Law School, November 21, 2003

A Specification to Coherence Theory of Punishment's Justification, Oxford Jurisprudence Discussion Group, Trinity College, Oxford, November 18, 2003

A Specification to Coherence Theory of Punishment's Justification, Issues in Criminal Law Theory, University of Birmingham School of Law, November 14, 2003

A Specification to Coherence Theory of Punishment's Justification, Criminal Justice Discussion Group, University of Nottingham School of Law, November 13, 2003

A Specification to Coherence Theory of Punishment's Justification, Institute for Law and Philosophy, University of Pennsylvania Law School, October 23, 2003

A Specification to Coherence Theory of Punishment's Justification, Faculty Colloquium, Notre Dame Law School, September 12, 2003

Battered Women on the Perplexing Border, Faculty Colloquium, University of Iowa College of Law, May 1, 2003

Dignity and Desert in Punishment Theory, Federalist Society National Student Symposium, Notre Dame Law School, February 21, 2003

A Reply to Duff, Legal Theory Workshop, University of Michigan Law School, January 21, 2003

Battered Women on the Perplexing Border, Fawley Lunch Series, University of Michigan Law School, October, 2002

Law, Economics, and the Skeleton of Value Fallacy, Law and Economics Seminar, University of North Carolina Law School, March, 2001

Solving the Apprendi Puzzle, Triangle Legal Theory Workshop, University of North Carolina Law School, March, 2001

Rethinking the Penalty Phase, Law Librarians of New England, Fall Conference, Western New England College School of Law, October 20, 2000.

Rethinking the Penalty Phase, University of Minnesota Law School, Faculty Colloquium, February, 2000

CONFERENCE ORGANIZER:

George Fletcher's THE GRAMMAR OF CRIMINAL LAW, Cardozo School of Law, November 2006.

Billie Holiday's Legacy Walks the Halls of 55 Fifth, Cardozo School of Law, February 22, 2021.

REVIEWER: Oxford Journal of Legal Studies

Yale Law Journal

OPINION: *Trump, Evangelicals and Dreams of a Christian Country*, NEW YORK DAILY NEWS, October 29, 2020

Minnesota Should Consider Another Charge in the Floyd Case, LAW 360, August 2, 2020

Trump's Legal Justification for the Abduction of Portland Protesters Is Absurd, SLATE, July 20, 2020

Blame the Law, Not the Lawyers, THE HILL, March 5, 2019

The Electoral College Is Actually Worse Than You Think-Here's Why, THE OBSERVER, February 27, 2019

No, Brett Kavanaugh Is Not on Trial—but if He Were, He'd Be in Trouble, NEW YORK LAW JOURNAL, November 26, 2018

MEDIA *Commentary on New York Grand Jury Subpoena in Trump v Vance*, Unboxing the Law, July 10, 2020

Commentary on Ukraine Impeachment Hearings, Al Jazeera, November 19 2019

Commentary on Rudy Giuliani's Role in Ukraine Impeachment Hearings, Al Jazeera, October 24, 2019

Commentary on Turkey's Halkbank Evading Iran Sanctions, Al Jazeera, October 16, 2019

Commentary on Ukraine Scandal and Impeachment, Al Jazeera, October 11, 2019

Commentary on Ukraine Scandal, Al Jazeera, September 25 2019

Commentary on Mueller Investigation Subpoenas to Trump Administration Officials, Al Jazeera, July 11, 2019

Commentary on Steven Mnuchin Testimony, Al Jazeera, May 16, 2019

HONORS: *Best Professor, Class of 1999,* Benjamin N. Cardozo School of Law, Yeshiva University

President, Cornell Legal Aid Society, 1983

Phi Beta Kappa, Washington University in St. Louis, 1981