

WILLIAM W. BERRY III

University of Mississippi School of Law

481 Chucky Mullins Drive, University, MS 38677

Phone: (662) 915-6859, Email: wwberry@olemiss.edu

SSRN: http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=878450

ACADEMIC APPOINTMENTS

UNIVERSITY OF MISSISSIPPI, Oxford, Mississippi

Associate Professor of Law with tenure, 2015-present

Frank Montague, Jr. Professor of Legal Studies and Professionalism, 2016-present

Director, Cambridge Summer Abroad Program, 2012-present

Teaching Faculty, Sally McDonnell Barksdale Honors College, 2013-present

Adjunct Professor, Department of Legal Studies, 2013-present

Jessie D. Puckett Lecturer, 2015-16

Beccaria Scholar in Criminal Law, 2013-15

Assistant Professor of Law, 2009-15

Visiting Associate Professor of Law, 2008-09

UNIVERSITY OF CAMBRIDGE, Cambridge, England

Visiting Scholar, Faculty of Law, Summer 2014, Summer 2015

Visiting Scholar, Institute of Criminology, Summer 2013

SAPIENZA, UNIVERSITY OF ROME, Rome, Italy

Visiting Scholar, Criminal Law Department, October 2015

MAX PLANCK INSTITUTE FOR FOREIGN AND INTERNATIONAL CRIMINAL LAW, Freiburg, Germany

Visiting Scholar, September 2015

EDUCATION

UNIVERSITY OF OXFORD, Green Templeton College, Oxford, England

D. Phil., Law (Centre for Criminology), June 2012

Dissertation: *Assessing Proportionality in Capital Cases: A Case Study of Ohio* (Dr. Carolyn Hoyle)

M.Sc., Criminology, May 2007 (first in M.Sc. class)

Dissertation: *Discretion without Guidance* (Dr. Julian Roberts)

VANDERBILT UNIVERSITY LAW SCHOOL, Nashville, Tennessee

J.D., May 2000

UNIVERSITY OF VIRGINIA, Charlottesville, Virginia

B.A., English, May 1997

PUBLICATIONS

BOOKS AND BOOK CHAPTERS

ENTERTAINMENT, MEDIA, AND THE LAW (WEST, 5th edition) (with Paul Weiler and Gary Myers)(2015).

Mitigation in Federal Sentencing in the United States, in MITIGATION AND AGGRAVATION AT SENTENCING (Julian V. Roberts, ed.), CAMBRIDGE UNIVERSITY PRESS (2011).

LAW REVIEW ARTICLES AND ESSAYS

Cruel Methods, Unusual Secrets

77 OHIO STATE L.J. __ (forthcoming 2017) (with Meghan J. Ryan).

Amending Amateurism

68 ALABAMA L. REV. __ (forthcoming 2016).

Normative Retroactivity

19 U. PA. J. CONST. L. __ (forthcoming 2016).

Remembering Furman's Comparative Proportionality

101 IOWA L. REV. ONLINE 65 (2016).

Implementing Just Mercy

94 TEXAS L. REV. 31 (2015).

Eighth Amendment Presumptions

89 SOUTHERN CALIFORNIA L. REV. 67 (2015).

Life-with-Hope Sentencing

76 OHIO STATE L.J. 1051 (2015).

Procedural Proportionality

22 GEORGE MASON L. REV. 259 (2015).

Ending the Death Lottery

76 OHIO STATE L.J. 67 (2015).

The Mandate of Miller

51 AM. CRIM. L. REV. 327 (2014).

Criminal Constitutional Avoidance

104 J. OF CRIM. L. & CRIMINOLOGY 105 (2014).

Educating Athletes

81 TENNESSEE L. REV. 795 (2014).

Practicing Proportionality

64 FLORIDA L. REV. 687 (2012).

- Cited by *State v. Pruitt*, 415 S.W. 180 (Tenn. 2013)(Koch, J., dissenting).

Separating Retribution from Proportionality

97 VIRGINIA L. REV. IN BRIEF 61 (2011).

The European Prescription for Ending the Death Penalty

2011 WISCONSIN L. REV. 1003 (2011).

Promulgating Proportionality

46 GEORGIA L. REV. 69 (2011).

- Cited by *State v. Cox*, 2016 WL 10789 (Ohio Ct. App. 2016)(Gallagher, J., dissenting).

Repudiating Death

101 J. OF CRIM. L. & CRIMINOLOGY 439 (2011).

More Different than Life, Less Different than Death

71 OHIO STATE L.J. 1109 (2010).

- Cited by *State v. Lyle*, 854 N.W. 2d 378 (Iowa 2014).

Ending Death by Dangerousness

52 ARIZONA L. REV. 889 (2010).

Extraordinary and Compelling

68 MARYLAND L. REV. 850 (2009).

- Reprinted in PAROLE: JUDICIAL REFLECTIONS (R. Satyanarayana, ed.), Amicus (2010).

American Procedural Exceptionalism

17 CORNELL J. OF L. & PUB. POL'Y 481 (2008).

Discretion without Guidance

40 CONN. L. REV. 631 (2008).

- Cited by *United States v. Elmore*, 743 F.3d 1068 (6th Cir. 2014).

Following the Yellow Brick Road of the Evolving Standards of Decency

28 PACE L. REV. 15 (2007).

- Cited by *Connecticut v. Santiago*, No. SC 17413 (Conn. 2015)(Rogers, C.J., dissenting).

LAW REVIEW SYMPOSIA ARTICLES AND ESSAYS

Restorative Innocence

68 FLA. L. REV. __ (2016)

- in *Essays on Innocence* (with L. Dervan, V. Beety, G. Gilchrist, R. Leo, and M. Ryan).

Playoff Profits for Academic Programs

5 MISS. SPORTS L. REV. 1 (2016).

The Retroactivity Roadmap

10 NYU JOURNAL OF LAW & LIBERTY 179 (2016).

Writing (and re-writing) Federal Criminal Law—in the Classroom

11 OHIO ST. J. OF CRIM. L. 767 (2014).

Eighth Amendment Differentness

78 MISSOURI L. REV. 1053 (2013).

Right about Wrongs?

44 CONN. L. REV. 1677 (2012).

SHORTER PUBLICATIONS

Preview of Montgomery v. Louisiana

43 ABA SUPREME COURT PREVIEW __ (2015).

Preview of Kansas v. Gleason

43 ABA SUPREME COURT PREVIEW __ (2015).

Humanizing the Condemned: A Review of The Forgotten Men

CRIMINAL LAW & CRIMINAL JUSTICE BOOKS, <http://clejbooks.rutgers.edu/> (Aug. 2015).

The Perils of Private Adjudication: A Review of Civil Justice, Privatization, and Democracy

24 INT'L CRIM. J. REV. 411 (2015).

The Myth of Memorization as Education

4 E-MANTLE NEWSLETTER, Ctr. for Educ., Teaching, & Learning, Univ. of Miss. (Nov. 2015).

Preview of Whitfield v. United States

42 ABA SUPREME COURT PREVIEW 92 (2014).

Preview of Johnson v. United States

42 ABA SUPREME COURT PREVIEW 50 (2014).

Assessing Rough Justice and the ICC's Quest for Legitimacy

24 INT'L CRIM. J. REV. 135 (2015).

Preview of Integrity Staffing Solutions v. Beck

42 ABA SUPREME COURT PREVIEW 22 (2014).

How Labor Law Could Save the NCAA

SLATE.COM, March 31, 2014.

The Power of Level Three Thinking

2 E-MANTLE NEWSLETTER, Ctr. for Educ., Teaching, & Learning, Univ. of Miss. (Mar. 2014).

Preview of Abramski v. United States

41 ABA SUPREME COURT PREVIEW 162 (2014).

Preview of United States v. Castleman

41 ABA SUPREME COURT PREVIEW 166 (2014).

Preview of Peugh v. United States

40 ABA SUPREME COURT PREVIEW 208 (2013).

Preview of McQuiggin v. Perkins

40 ABA SUPREME COURT PREVIEW 205 (2013).

Foreword

1 MISS. SPORTS L. REV. 245 (2012).

Preview of Perry v. New Hampshire
39 ABA SUPREME COURT PREVIEW 80 (2011).

Preview of Walker v. Martin
38 ABA SUPREME COURT PREVIEW 118 (2010).

WORKS IN PROGRESS

Eighth Amendment Theory (book project)

Individualized Sentencing (with Carissa Hessick)

Evolving Democratic Constitutionalism (and the Future of the Eighth Amendment)

SELECTED MEDIA, PANELS, AND PRESENTATIONS

Texas Tech Law School, Lubbock, TX, *Criminal Law Symposium on Miranda v. Arizona*, Speaker (scheduled for April 2017).

Southeastern Association of Law Schools Conference, Amelia Island, FL, *Criminal Law Discussion Group on United States v. Booker*, Speaker and Organizer (August 2016).

Southeastern Association of Law Schools Conference, Amelia Island, FL, *Criminal Law Discussion Group on the Future of Criminal Law*, Speaker (August 2016).

American Inns of Court, William C. Keady Chapter, Oxford, MS, *Current Issues in Sports Law* (April 2016).

American Association of Law Schools Conference, New York, NY, *Sports Law Section Panel on Amateurism*, Speaker (January 2016).

American Association of Law Schools Conference, New York, NY, *Criminal Law Symposium on Violence Against Women*, Moderator, Punishment Panel (January 2016).

Bloomberg Law Podcast, Bloomberg Radio, Bloomberg Law: Lethal Injection (discussion of *Foster v. Chapman* oral argument) with June Grasso, Michael Best, and Meghan Ryan (November 2, 2015).

University of Rome, Sapienza Law School, *Eighth Amendment Presumptions* (October 2015).

Southeastern Association of Law Schools Conference, Boca Raton, FL, *Current Issues in Intercollegiate Athletics Discussion Group*, Speaker and Organizer (July 2015).

Southeastern Association of Law Schools Conference, Boca Raton, FL, *Law and Baseball Discussion Group*, Speaker (July 2015).

Southeastern Association of Law Schools Conference, Boca Raton, FL, *Innocence and Criminal Law Discussion Group*, Speaker (July 2015).

Bloomberg Law Podcast, Bloomberg Radio, Bloomberg Law: Lethal Injection (discussion of *Glossip v. Gross* decision) with June Grasso (June 30, 2015).

Intellectual Property Section CLE, Mississippi Bar, Jackson, MS, Intellectual Property, Entertainment, and Sports Law Conference, Sports Law Panel, Speaker and Moderator (May 2015).

Bloomberg Law Podcast, Bloomberg Radio, Bloomberg Law: Lethal Injection (discussion of *Glossip v. Gross* oral argument) with June Grasso and Meghan Ryan (May 1, 2015).

Bloomberg Law Podcast, Bloomberg Radio, Bloomberg Law: Supreme Court on Sentencing Guidelines (discussion of *United States v. Johnson*) with June Grasso, Michael Best, and Douglas Berman (April 21, 2015).

Southeastern Association of Law Schools Conference, Boca Raton, FL, *Current Issues in Intercollegiate Athletics Discussion Group*, Speaker and Organizer (July 2015).

Southeastern Association of Law Schools Conference, Boca Raton, FL, *Law and Baseball Discussion Group*, Speaker (scheduled for July 2015).

Southeastern Association of Law Schools Conference, Boca Raton, FL, *Innocence and Criminal Law Discussion Group*, Speaker (scheduled for July 2015).

Southeastern Association of Law Schools Conference, Amelia Island, FL, *Mercy in the Administration of Criminal Justice Discussion Group*, Speaker and Organizer (August 2014).

Law & Society Conference, Minneapolis, MN, *Re-indoctrinating the Eighth Amendment* (May 2014).

Panola County Bar Association, Batesville, MS, *Northwestern and Labor Unions in Intercollegiate Athletics* (May 2014).

University of Mississippi Honors Convocation, Oxford, MS, *Keynote Speaker* (April 2014).

Texas Tech University School of Law, Lubbock, TX, *Moderator*, Intentional Killings Panel, Criminal Law Symposium (April 2014).

Season Pass, Mississippi Public Broadcasting, *Interview re: Northwestern Labor Union Case* (March 2014).

University of Arkansas Law Faculty, Fayetteville, AR, *Procedural Proportionality* (March 2014).

Office of State Public Defender, Deep South Capital Defense Conference, Biloxi, MS, *Overview of Miller and Mississippi Cases* (March 2014).

Southern Methodist University Law School Criminal Justice Conference, Dallas, TX: *Procedural Proportionality* (January 2014)(invited roundtable).

American Bar Association Criminal Justice Section Fall Institute, Washington, D.C., *Procedural Proportionality* (October 2013)(selected paper).

University of Mississippi Sports Law Review Symposium, Oxford, MS: *Intercollegiate Athletics and the Future of Amateurism*, Panel Organizer and Moderator (October 2013).

Southeastern Association of Law Schools Conference, Palm Beach, FL, *Vulnerability and the Criminal Justice System* Discussion Group (August 2013) (invited paper).

Southeastern Association of Law Schools Conference, Palm Beach, FL, *White Collar Crime / Federal Criminal Law Pedagogy* Discussion Group (August 2013) (invited paper).

Law & Society Conference, Boston, MA: *Procedural Proportionality*, Criminal Law Shadow Conference (May 2013).

Continuing Legal Education Seminar, Oxford, MS: *Current Issues in Intercollegiate Athletics*, Law Alumni Weekend (April 2013).

University of Missouri Law Review Symposium, Columbia, MO, *Eighth Amendment Differentness* (March 2013) (invited paper).

University of Mississippi School of Law, Oxford, MS: *Eighth Amendment Differentness*, Faculty Brownbag Lunch Series (February 2013).

Coalition on Intercollegiate Athletics Conference, Tampa, FL: *Current Legal Issues in Intercollegiate Athletics*, Panel Organizer and Moderator (February 2013).

University of Mississippi Sports Law Review Symposium, Oxford, MS: *The Impact of Concussion Lawsuits on the Future of Pro Football*, Panel Organizer and Moderator (November 2012).

American Bar Association Criminal Justice Section Fall Institute, Washington, D.C.: *The Mandate of Miller* (October 2012)(selected paper).

Southeastern Law Scholars Conference, Charleston, SC: *The Mandate of Miller* (September 2012)(selected paper).

Southeastern Association of Law Schools Conference, Amelia Island, FL: *Criminal Constitutional Avoidance*, White Collar Crime Panel (August 2012).

Law & Society Conference, Honolulu, HI: *Remedying the Capital Failures of Comity and Federalism*, Criminal Law Shadow Conference (June 2012).

University of Mississippi Sports Law Review Symposium, Oxford, MS: *Legal and Political Challenges to the Bowl Championship Series and Conference Realignment*, Panel Moderator (March 2012).

Mississippi College School of Law, Jackson, MS: *Practicing Proportionality*, Faculty Exchange Series (March 2012) (invited presentation).

University of Mississippi School of Law, Oxford, MS: *Practicing Proportionality*, Faculty Brownbag Lunch Series (November 2011).

University of Mississippi Sports Law Review Symposium, Oxford, MS: *Social Media and Intercollegiate Athletics*, Panel Moderator (November 2011).

Southeastern Association of Law Schools Conference, Hilton Head, SC: *Promulgating Proportionality*, Eighth Amendment Panel (July 2011).

Law & Society Conference, San Francisco, CA: *Promulgating Proportionality*, Criminal Law Shadow Conference (June 2011).

Southeastern Association of Law Schools Conference, Palm Beach, FL: *More Different than Death, Less Different than Life*, Young Scholars Workshop (July 2010).

Law & Society Conference, Denver, CO: *Promulgating Proportionality*, Criminal Law Shadow Conference (June 2009).

Law & Society Conference, Berlin, Germany: *American Procedural Exceptionalism* (June 2007)

TEACHING

AWARDS

UNIVERSITY-WIDE TEACHING AWARD (ELSIE M. HOOD AWARD)
OUTSTANDING FACULTY HONOREE, STATE LEGISLATURE (HEADWAE AWARD)
LAW SCHOOL TEACHING AWARD (OUTSTANDING LAW TEACHER AWARD)

CLASSES TAUGHT

LAW SCHOOL CLASSES

2016-17:

Capital Punishment Seminar
Criminal Law
Sentencing
Sports Law

Other classes taught:

Comparative Capital Punishment
Comparative Sentencing
Criminal Procedure II (Adjudication)
Employment Discrimination
Employer-Employee Relations
Entertainment and Sports Law
Federal Criminal Law and White Collar Crime
International Criminal Law
International Sports Law
Labor Law
Negotiation and Contract Drafting
Sentencing Theory Seminar
Torts I
Torts II

LEGAL STUDIES CLASSES

Criminal Law (CJ 210)(online)
Criminal Justice Communication (CJ 322)
The Death Penalty (CJ 390)(online)
Criminal Procedure (CJ 410)(online)
Criminal Justice Colloquium (CJ 499)(in class and online)
Criminal Justice Administration (CJ 500)

HONORS COLLEGE CLASSES

Honors College Freshman Seminar I (Hon 101)
Honors College Freshman Seminar II (Hon 102)

SERVICE

2016-17

Director, Cambridge Summer Abroad Program (2012-present)

Chair, Academic Discipline Committee (University Standing Committee)(2016-present)

Founder and Advisor, Mississippi Sports Law Review (2011-present)

Member, Faculty Committee for Sally McDonnell Barksdale Honors College (2013-present)

Search Committee for Law School Dean (2016-17)

Selection Committee for Elsie M. Hood Outstanding Teacher Award

Executive Committee, American Association of Law Schools, Sports Law Section (2016-present)

Mentor Committee, Southeastern Association of Law Schools (SEALS)(2013-present)

Advisor, Public Interest Law Foundation (PILF)

Prior to 2016

Fellow, Southeastern Conference Academic Leadership Development Program (2013-14)

Senator, University of Mississippi Faculty Senate (2010-14)

Board Member, Center for Education, Teaching and Learning (2014-16)

- Served for three years on board to promote enhanced teaching and learning at university

Board Member, Committee on Intercollegiate Athletics (2011-14)

Chair, Selection Committee for Elsie M. Hood Outstanding Teacher Award (2015)

Legal Advisor and Steering Committee Member, Coalition on Intercollegiate Athletics (COIA)(2011-14)

University / Law Search Committees

- Search Committee Member, Law Director of Career Services (2016)
- Search Committee Member, University Police Chief (2015)
- Search Committee Member, Provost Fellow for Teaching and Learning (2015)

Curriculum Advisor, Law School Skills Intersession Program (2013)

Organizer of Panels at Academic Conferences

- Sentencing 10 years after *Booker*, SEALS Conference (2016)
- The Future of Intercollegiate Athletics Panel, SEALS Conference (2015)
- Mercy and Criminal Justice, SEALS Conference (2014)
- Eighth Amendment Panel, Law & Society Conference (2014)
- Concussions Panel, COIA Conference (2013)
- White Collar Crime Panel, SEALS Conference (2012)
- Cruel and Unusual Punishments Panel, SEALS Conference (2011)

Other University Committees

- University Thomas F. Frist Student Service Awards Committee
- University Honors Day Committee
- University Faculty Achievement Award Selection Committee

Other Law School Committees

- Faculty Development Advisory Group
- Curriculum and Practices Committee
- Employment and Judicial Clerkship Committee
- Library and Technology Committee
- Speakers Committee
- Faculty Appointments Committee
- Search Committee for Career Services Director

OTHER EXPERIENCE

SHEA & GARDNER (NOW GOODWIN PROCTER), Washington, D.C.

Associate Attorney, 2002-05.

HONORABLE GILBERT S. MERRITT, U.S. Court of Appeals for the Sixth Circuit, Nashville, TN

Law Clerk, 2001-02.

**HONORABLE THOMAS A. WISEMAN, U.S. District Court for the Middle District of Tennessee,
Nashville, TN**

Law Clerk, 2000-01.

**HONORABLE GEORGE C. PAINE, U.S. Bankruptcy Court for the Middle District of Tennessee,
Nashville, TN**

Judicial Intern, Spring Semester, 2000.