

LEAH M. LITMAN

Assistant Professor of Law, University of California, Irvine School of Law
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ACADEMIC APPOINTMENTS

University of California, Irvine School of Law June 2016-present

Assistant Professor of Law

Courses: Post-Conviction Justice; Constitutional Law; Federal Courts

Service: Clerkship Committee (2016-present); Admissions Committee (2017-present); Faculty Affiliate, Center for Biotechnology & Global Health Policy (Reproductive Justice Initiative); Strategic Planning Committee (2018-present)

Honors: 1L Professor of Year nominee (2017)

Harvard Law School July 2014-June 2016

Climenko Fellow & Lecturer on Law

Taught first-year Legal Research and Writing to approximately forty students each year.

Honors: Inaugural recipient, HLS Student Government Teaching & Advising Award (2016)

EDUCATION

University of Michigan Law School, J.D., *summa cum laude* May 2010

Activities: Editor in Chief, *Michigan Law Review*

Senior Judge (Teaching Assistant for Legal Practice course); Family Law Project

Honors: Henry M. Bates Memorial Scholarship Award (award for outstanding graduating law students); Daniel Grady Prize (highest GPA in graduating class); Class of 1908 Award (highest 2nd year GPA); Maurice Weigle Award (highest 1st year GPA); Order of the Coif; Roger A. Cunningham Prize (excellence in Property and other 1st year classes); Abram W. Sempliner Award (outstanding leadership of *Law Review*); Clarence Darrow Scholar (full-tuition merit scholarship & stipend); Certificates of Merit (best exam): Constitutional Law, Federal Courts, Jurisdiction & Choice Of Law, Criminal Law, Criminal Justice: Police Practices, Torts, Ethics, Employment Law, Transnational Law

Harvard College, A.B. (Chemistry & Chemical Biology), *cum laude* June 2006

Activities: Editor in Chief, *Harvard International Review*

Take Back The Night (chair); Coalition Against Sexual Violence (member)

Honors: Thomas Temple Hoopes Prize nominee for senior thesis

Robert T. Benjamin Prize (2006); Harvard Kennedy School Visionary Ending Violence Prize (2005); U.S. Presidential Scholar (2002)

ARTICLES

Remedial Convergence and Collapse, 106 CALIF. L. REV. ____ (forthcoming 2018)

Legal Innocence and Federal Habeas, 104 VA. L. REV. ____ (forthcoming 2018)

- Selected for 2017 Junior Faculty Federal Courts Workshop

Burdening Women's Health: How Lower Courts Are Undermining Whole Woman's Health v. Hellerstedt, 116 MICH. L. REV. ONLINE 50 (2017)

Debunking Anti-Noveltly, 66 DUKE L.J. 1407 (2017)

- Cited in *Consumer Financial Protection Bureau v. Future Income Payments, LLC*, No. SACV 17-00303, 2017 WL 2190069 (C.D. Cal. May 17, 2017)
- Cited in Brief of Separation of Powers Scholars As Amici Curiae, *PHH v. CFPB* (No. 15-1177 D.C. Cir.)
- Cited in Brief of Financial Regulation Scholars As Amici Curiae, *PHH v. CFPB* (No. 15-1177 D.C. Cir.)
- The Picard Meltdown Principle, Oral Argument Podcast (July 9, 2017) (podcast episode featured article)

Potential Life in the Doctrine, 95 TEX. L. REV. SEE ALSO 204 (2017)

What Lurks Below Beckles v. United States, 111 NW. U. L. REV. 555 (2017) (co-written with Shakeer Rahman)

- Linked to by Douglas Berman, *What Lurks Below Beckles*, SENTENCING LAW & POLICY (Sept. 8, 2016), http://sentencing.typepad.com/sentencing_law_and_policy/2016/09/what-lurks-below-beckles.html
- Originally printed in 111 NW. U. L. REV. ONLINE 69 (2016)
- Cited in *United States v. Pyle*, No. 16-846, 2017 WL 3207811 (D. N.M. Apr. 4, 2017)

Judge Gorsuch and Johnson Resentencing, 115 MICH. L. REV. ONLINE 67 (2017)

- Discussed in Radley Balko, *In Gorsuch, Trump gave Democrats a gift. They should take it.*, WASHINGTON POST (Feb. 1, 2017), https://www.washingtonpost.com/news/the-watch/wp/2017/02/01/in-gorsuch-trump-gave-democrats-a-gift-they-should-take-it/?tid=ss_tw-amp&utm_term=.4c9c4f5a2713
- Discussed in Adam Liptak, *Serving Extra Years in Prison, and the Courthouse Doors Are Closed*, NEW YORK TIMES (Nov. 20, 2017)

How The Sentencing Commission Does and Does Not Matter in Beckles v. United States, 165 PENN. U. L. REV. ONLINE 33 (2016) (co-written with Luke C. Beasley)

- Cited in Merits Brief of Court-Appointed Amicus Curiae In Support of Judgment Below, *Beckles v. United States* (U.S. No. 15-8544)
- Linked to by Douglas Berman, *Jurisdiction And Resentencing*, SENTENCING LAW & POLICY (Oct. 17, 2016), http://sentencing.typepad.com/sentencing_law_and_policy/2016/10/how-the-sentencing-commission-does-and-does-not-matter-in-beckles-v-united-states.html

Jurisdiction And Resentencing, 101 CORNELL L. REV. ONLINE 91 (2016) (co-written with Luke C. Beasley)

- Linked to by Douglas Berman, *Jurisdiction And Resentencing*, SENTENCING LAW & POLICY (Mar. 8, 2016), http://sentencing.typepad.com/sentencing_law_and_policy/2016/05/jurisdiction-and-resentencing-how-prosecutorial-waiver-can-offer-remedies-congress-has-denied.html

Inventing Equal Sovereignty, 114 MICH. L. REV. 1207 (2016)

The Exceptional Circumstances Of Johnson v. United States, 114. MICH. L. REV. FIRST IMPRESSIONS 81 (2016)

Taking Care of Federal Law, 101 VA. L. REV. 1289 (2015)

- Reviewed in Peter Shane, *A Federalism Stake in the Heart of the Unitary Executive?*, JOTWELL (July 22nd, 2016), <http://adlaw.jotwell.com/a-federalism-stake-in-the-heart-of-the-unitary-executive/>

- Discussed in Chris Walker, *Shane on Litman on Standing to Take Care of Federal Law*, YALE J. REG. NOTICE & COMMENT (Aug. 27, 2016), <http://yalejreg.com/nc/shane-on-litman-on-standing-to-take-care-of-federal-law-adlaw-bridge-series/>

Officiating Removal, 164 PENN. L. REV. ONLINE 33 (2015)

Resentencing In The Shadow Of Johnson v. United States, 28 FED. SENT'G REP. 45 (2015)

- Cited in Merits Brief of Petitioner, *Welch v. United States*, 136 S. Ct. 1257 (2016)

Residual Impact: Resentencing Implications of Johnson's Potential Ruling on ACCA's Constitutionality, 115 COLUM. L. REV. SIDEBAR 55 (2015)

- Cited in Merits Reply Brief of Petitioner, *Welch v. United States*, 136 S. Ct. 1257 (2016)
- Cited in Merits Brief of Court-Appointed Amicus Curiae In Support of Judgment Below, *Welch v. United States*, 136 S. Ct. 1257 (2016)
- Cited in Petition for Certiorari, *Beckles v. United States* (U.S. No. 15-8544)
- Linked to by Douglas Berman, *Residual Impact*, SENTENCING LAW & POLICY (April 21, 2015), http://sentencing.typepad.com/sentencing_law_and_policy/2015/04/residual-impact-resentencing-implications-of-johnson-v-united-states-potential-ruling-on-accas-const.html

WORKS IN PROGRESS

Habeas As A Revolution

State Remedial Hostility And The New Judicial Federalism

JUDICIAL CLERKSHIPS

Supreme Court of the United States, Washington, DC July 2011-July 2012
Law Clerk to Hon. Anthony M. Kennedy

U.S. Court of Appeals for the Sixth Circuit, Columbus, OH May 2010-June 2011
Law Clerk to Hon. Jeffrey S. Sutton

OTHER WRITING

Blogger, *Take Care*, [HTTPS://TAKECAREBLOG.COM](https://takecareblog.com)

- Posts cited in various media including *CNN*, *Slate*, *Washington Post*, *Bloomberg U.S. Law Week Reports*, *Guardian*, *Think Progress*, *The Economist*, and *Mother Jones*
- Posts cited in appellate briefs to U.S. Court of Appeals for the Fourth Circuit, U.S. Court of Appeals for the Ninth Circuit, and U.S. Supreme Court

Contributing Writer, *In Justice Today* (publication series run by Harvard Law School's Fair Punishment Project)

The mootness games, SCOTUSblog, <http://www.scotusblog.com/> (July 11, 2017) (invited symposium contribution on entry ban litigation)

Here's a different reason Trump's new travel ban violates the First Amendment, Sacramento Bee (May 7, 2017) (with Erwin Chemerinsky)

An Easy Way to Resolve the SCOTUS Case on Title IX and Restroom Access, Dorf on Law, www.dorfonlaw.org (Mar. 2, 2017) (with Sam Bagenstos, Michael Dorf, and Marty Lederman)

A Simpler Way to Resolve the SCOTUS Case on Title IX and Restroom Access, Balkinization, www.balkin.blogspot.com (Mar. 2, 2017) (with Sam Bagenstos, Michael Dorf, and Marty Lederman)

Government workers can ignore Trump's immigration order—and we'll defend them, Boston Globe (Feb. 4, 2017) (with Daniel Epps and Ian Samuel)

Contributing Blogger, *CaseText* (invited contributor on *Johnson v. United States* resentencing issues)

A Jurisprudence of Doubt & Undue Burdens: Why Deciding Not To Decide in Whole Woman's Health Would Be A Mistake, CASETEXT.COM (Mar. 3, 2016)

- Cited in Irin Carmon, *What if the Supreme Court punts on abortion?*, MSNBC.com (Mar. 8, 2016)

SELECTED MEDIA

Part Time Host, First Mondays, www.firstmondays.fm (Supreme Court podcast, affiliated podcast of SCOTUSBlog)

Lexology, *One Hashtag at a Time: Twitter's Versatile Tool Is Put to Work in the Legal Industry* (Feb. 28, 2018)

Angela Morris, *Women Lawyers Join #MeToo Movement with Hashtag of Their Own*, Texas Lawyer/Law.Com (Feb. 19, 2018)

Slate Amicus Podcast, *Porter and due process* (Feb. 17, 2018)

Jan Wolfe, *Russian indictments could set stage for more Mueller charges*, Reuters (Feb. 16, 2018)

Vice News Tonight, *#MeToo Special* (Feb. 14, 2018)

National Constitution Center Podcast We The People, *Undocumented teens and abortion* (Jan. 11, 2018)

Slate Amicus Podcast, *#MeToo in the Courts* (Dec. 23, 2017)

Vice News, *Pregnant, undocumented teens can get abortions, judge rules* (Dec. 18, 2017)

HBO Vice News Tonight (Dec. 18, 2017)

Tina Nguyen, *How Trump's Online Self-Sabotage Is Breaking His Presidency*, VANITY FAIR (Nov. 29, 2017)

Adam Liptak, *Serving Extra Years in Prison, and the Courthouse Doors Are Closed*, NEW YORK TIMES (Nov. 20, 2017)

Bloomberg BNA Criminal Law Reporter, *Fourth Amendment Blockbuster Tops Supreme Court Criminal Docket* (Sept. 20, 2017)

Right and Left on Trump's DACA Decision, New York Times (Sept. 5, 2017)

Adam Liptak, *New on This Fall's Law School Syllabus: Trump*, New York Times (Aug. 14, 2017)

Bloomberg Radio (July 20, 2017) (podcast episode featuring discussion of President's comments on Attorney General Jeff Sessions and Special Counsel Robert Mueller)

CTV News Channel (July 19, 2017) (invited guest on episode related to entry ban litigation developments)

Robert Barnes, *A Supreme Court mystery: Has Roberts embraced same-sex marriage ruling?*, Washington Post (July 16, 2017)

The Picard Meltdown Principle, Oral Argument Podcast (July 9, 2017) (podcast episode featuring *Debunking Antinovelty* article)

ACS Law and Policy Briefing, Trump's Executive Order on Immigration and the Supreme Court (June 27, 2017)

Greg Stohr, *Gorsuch joins Thomas as Supreme Court's new conservative anchor*, Bloomberg (June 26, 2017)

Joseph P. Williams, *SCOTUS to Decide Future of Travel Ban Case*, U.S. News (June 21, 2017)

Julia Harte, *Democratic lawmakers sue Trump over foreign state payments to businesses*, Reuters (June 14, 2017)

Background Briefing With Ian Masters, States Sue Trump Under the Emoluments Clause (June 12, 2017) (broadcast over *National Public Radio* stations)

Ryan Lovelace, *Will the Supreme Court take up Trump's travel ban?*, Washington Examiner (June 3, 2017)

Jeff Horsemann, *Here's what Congress should ask fired FBI director James Comey about the Russia probe*, Los Angeles Daily News (May 27, 2017)

National Constitution Center Podcast We The People, *Will the President's travel ban hold up in court?* (May 8, 2017)

Steven Mazie, *POTUS v the constitution: A new spin on why the travel ban is unconstitutional*, The Economist (Apr. 28, 2017)

Ian Samuel, *The Nervous Civil Servant's Guide to Defying an Illegal Order*, Slate.com (Feb. 2, 2017)

Lisa Belkin, *Civil servant? Worried about illegal orders? These lawyers want to defend you*, Yahoo!News (Jan. 30, 2017)

Lauren Evans, *Disobey Orders*, Jezebel.com (Jan. 29, 2017)

Jessica Da Silva, *Defendants Get SCOTUS Sentencing Win; Johnson Retroactive*, Bloomberg (Apr. 18, 2016)

Raishay Lin, *Challenging abortion access restrictions*, Harvard Law Today (Mar. 14, 2016)

Michael Linhorst, *That Time Ted Cruz Submitted a Supreme Court Brief Citing ... Ted Cruz*, Politico (Feb. 28, 2016)

Tara Mikkilineni, *Writing for the Supreme Court Justices*, CASETEXT.COM (Jan. 15, 2016)

Caroline Grueskin, *13 Words That Could Mean Freedom for Many*, The Marshall Project (Oct. 19, 2015)

Matt Stroud, *What Does It Matter if a White Supremacist Gets Too Much Time Behind Bars?*, Bloomberg (Apr. 20, 2015)

TEACHING INTERESTS

Primary: Constitutional Law; Federal Courts; Jurisdiction; Post-Conviction Review & Habeas Corpus; Criminal Procedure; Criminal Law

Secondary: Civil Procedure; Civil Rights; Torts

OTHER EXPERIENCE

Wilmer Cutler Pickering Hale and Dorr LLP, Washington, DC November 2012-June 2014
Associate & Senior Associate, Appellate and Government and Regulatory Litigation Groups

- Prepared court filings in litigation that raised abstention, personal jurisdiction, and venue issues
- Drafted principal briefs in federal post-conviction proceedings & amicus briefs in the marriage litigation in federal courts of appeals

Covington & Burling, Washington, DC Summer 2009
Summer Associate (received offer)

U.S. Department of Justice, Washington, DC Summer 2008
Intern, Criminal Appellate Section

Bancroft PLLC, Washington, DC July 2006-2007; Summer 2008
Research Associate

PRO BONO REPRESENTATION

Ramirez Medina v. Asber (No. 2:17-cv-00218 W.D. Wash.). Serving as co-counsel for petitioner, a DACA recipient, who is challenging his arrest and detention by immigration officials.

Garcia v. United States (No. 3:17-cv-05380 N.D. Cal.). Serving as co-counsel for petitioners, several individual DACA recipients, who are challenging rescission of DACA.

Citizens for Ethics and Responsibility in Washington v. Trump (No. 1:17-cv-00458 S.D.N.Y.). Serving as co-author, and signatory to amicus brief of administrative law and federal courts scholars arguing that the plaintiffs' emoluments clause claims are justiciable.

Hopkins v. Jegley (No. 17-2879 8th Cir.). Serving as signatory to amicus brief of constitutional law scholars in support of a challenge to several Arkansas restrictions on abortion.

Planned Parenthood v. Jegley (No. 17-935 U.S.). Serving as co-author and signatory of amicus brief for constitutional law scholars in support of a challenge to Arkansas restriction on medication abortion.

Reeves v. Coleman (No. 17-2879. 3d Cir.). Serving as signatory to amicus brief of habeas scholars in support of a request for certificate of appealability.

Walker v. Farnan (No. 17-1043 U.S.). Served as signatory and contributor to amicus brief for professors in support of a petition for certiorari challenging solitary confinement.

Whole Woman's Health v. Hellerstedt (No. 17-50154 5th Cir.). Signatory and contributor to brief of constitutional law scholars Erwin Chemerinsky, Walter Dellinger, Michael Dorf, Daniel Farber, Joanna Grossman, Leah Litman, Suzanna Sherry, Geoffrey Stone, and Laurence Tribe arguing that Texas's "fetal burial" regulation is unconstitutional.

Trump v. International Refugee Assistance Project/Trump v. Hawaii (U.S. Nos. 16-1436, 16A1190, 16A1191). Signatory and contributor to brief of constitutional law scholars arguing that Executive Order 13780 (the entry ban) is unconstitutional.

Perry v. United States (No. 15-3494 7th Cir.). Serving as co-counsel on an amicus brief arguing sentence imposed under mandatory version of the Guideline can be void for vagueness.

G.G. v. Gloucester County School Board (No. 16-2056 4th Cir.). Serving as co-counsel on an amicus brief on behalf of four law professors in support of the plaintiff/appellant, arguing that school board's policy constitutes unlawful discrimination on the basis of sex when applied to the petitioner, a transgender student.

International Refugee Assistance Project v. Trump (No. 17-1351 4th Cir.). Signatory and contributor to brief of constitutional law scholars arguing that Executive Order 13780 (the entry ban) is unconstitutional.

- Cited in *International Refugee Assistance Project v. Trump* (No. 17-1351 4th Cir. May 25, 2017).

Hawaii v. Trump (No. 17-15589 9th Cir.). Signatory and contributor to brief of constitutional law scholars arguing that Executive Order 13780 (the entry ban) is unconstitutional.

Gloucester County School Board v. G.G. (U.S. No. 16-273). Served as co-counsel on an amicus brief on behalf of four law professors in support of the respondent, arguing that school board's policy constitutes unlawful discrimination on the basis of sex when applied to the petitioner, a transgender student.

Hernandez v. Mesa (U.S. No. 15-1188). Serving as co-counsel for plaintiff in a *Bivens* action raising an unjustified deadly force claim against a border patrol agent.

Beckles v. United States (U.S. No. 15-8544). Served as co-counsel on amicus brief in support of petitioner, arguing that the career offender Guideline is unconstitutionally void for vagueness, and that a rule invalidating the career offender Guideline should apply retroactively.

- Cited in *Beckles v. United States* (U.S. No. 15-8544) (Mar. 6, 2017) (Sotomayor, J., concurring).

Whole Woman's Health v. Hellerstedt, 136 S. Ct. 2292 (2016). Served as co-counsel for plaintiffs in a successful constitutional challenge to Texas's ambulatory surgical center and admitting privileges restrictions on abortion.

Welch v. United States, 136 S. Ct. 1257 (2016). Co-counsel on amicus brief in support of petitioner, arguing for retroactivity of *Johnson v. United States*, the Supreme Court decision invalidating the Armed Career Criminal Act residual clause.

Obergefell v. Hodges, *DeBoer v. Snyder*, 135 S. Ct. 2584 (2014). Drafted opening Supreme Court merits brief in case challenging constitutionality of states' failure to recognize marriages of same-sex couples. Assisted arguing counsel in drafting reply brief and preparing for Supreme Court oral argument in cases challenging constitutionality of states' failure to license marriages of same-sex couples.

OTHER SERVICE

Member, Legal Advisory Council for Harvard Law School's Fair Punishment Project

Academic Advisory Board, Supreme Court Fellows Program

Referee, *Theoretical Criminology*, *New Criminal Law Review*, *Yale Law Journal*

SPEAKING ENGAGEMENTS, PRESENTATIONS

Remedial Convergence and Collapse

University of San Diego, February 2018

University of Virginia, February 2018

University of Arizona, November 2017

Legal Innocence and Federal Habeas

University of Texas, January 2018

Supreme Court Term Review, Athenaeum Center Claremont McKenna College (April 2018)

The Supreme Court's Implications for Post-Conviction Review Federal Judicial Center, National Conference for Appellate Staff Attorneys (April 2018)

Stanford Constitutional Law Center Supreme Court Term at Midterm (February 2018)

Norms, Conventions, and Constitutional Governance, American Constitution Society at AALS (January 2018)

Riding The Wave Of Resentencings After A Bombshell, Appellate Judges Educational Institute (November 2017)

The Resentencing Implications of Dimaya v. Sessions, Federal Judicial Center Webinar (October 2017, December 2017)

Supreme Court Term Preview and Review, Concerned Citizens of America (October 2017)

UCI Supreme Court Term Preview (September 2017)

UCI Supreme Court Term In Review (July 2017)

Federal Sentencing And Habeas Corpus: A Debate, University of Chicago Law School (March 2017)

Updates On Post-Johnson Resentencing Issues, Federal Judicial Center Conference (March 2017)

Debunking AntiNovelty

University of California, Irvine School of Law, September 2016

Harvard Law School, *Becoming A Law Professor* Workshop, April 2016

Inventing Equal Sovereignty

University of Michigan, October 2015

Vanderbilt University, October 2015

Boston College, October 2015

University of California, Davis, December 2015

University of California, Irvine, January 2016

University of Michigan, *Michigan Law Review* Author Talk, March 2016

AWARDS AND HONORS

California Lawyer of the Year—Immigration (2018)

BAR AND COURT ADMISSIONS

Maryland & District of Columbia; U.S. Courts of Appeals for the Second, Tenth, and Federal Circuits; U.S. Supreme Court