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Creator/Co-Host, **Undisclosed Podcast** (<http://undisclosed-podcast.com/>)

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### **EXPERIENCE:**

***University of South Carolina School of Law***, Columbia SC

Thomas H. Pope Professorship in Trial Advocacy

August 2019-present

Associate Dean for Faculty Development

July 2014-July 2021

Professor of Law

January 2015-present

Associate Professor of Law with Tenure

July 2012-December 2014

Teach Evidence, Criminal Law, and Criminal Adjudication (Professor of the Year, 2014; Thumbs Up Award for making a significant difference for students with disabilities, 2020 & 2021).

***UIC Law School***, Chicago, IL

Associate Professor of Law

July 2009-June 2012

Assistant Professor of Law

July 2007-June 2009

Taught Evidence, Criminal Law, Criminal Procedure, and Civil Procedure (Scholarly Achievement Award, 2011).

***William and Mary School of Law***, Williamsburg, VA

Visiting Associate Professor

Fall 2010

Taught two sections of Evidence.

***New York Supreme Court, Appellate Division***, Brooklyn, NY  
2007

April 2005-June

Appellate Court Attorney

Reviewed Supreme Court records in civil and criminal cases, prepared reports, and wrote draft opinions.

***Saltman & Stevens, P.C.***, Washington, D.C.

August 2003-April 2005

Litigation Associate

Prepared cases involving contract, appellate, criminal, property, and environmental law.

### **JOURNAL PUBLICATIONS:**

- [\*A New Test for the New Crime Exception\*](#), 2023 UTAH L. REV. 545 (2023).
- [\*Rectifying Wrongful Convictions Through the Dormant Grand Jury Clause\*](#), 90 GEO. WASH. L. REV. 927 (2022).
- [\*The Constitutional Right to an Implicit Bias Jury Instruction\*](#), 59 AM. CRIM. L. REV. 349 (2022).
- *The Real McCoy: Defining the Defendant's Right to Autonomy in the Wake of McCoy v. Louisiana*, 53 LOY. U. CHI. L.J. 405 (2022) (invited symposium essay).
- [\*The End of Comparative Qualified Immunity\*](#), 99 TEX. L. REV. ONLINE 217 (2021).
- [\*Why States Must Consider Innocence Claims After Guilty Pleas\*](#), 10 UC IRVINE L. REV. 671 (2020).
- [\*The Right to Evidence of Innocence Before Pleading Guilty\*](#), 53 U.C. DAVIS L. REV. 271 (2019).
- [\*Plea Agreements as Constitutional Contracts\*](#), 97 N.C. L. REV. 31 (2018).
- [\*Reciprocal Immunity\*](#), 93 IND. L.J. SUPPLEMENT 1 (2018).
- [\*Sovereign Impunity: Why Double Jeopardy Should Apply in Puerto Rico\*](#), 73 WASH. & LEE L. REV. ONLINE 174 (2016).

- [\*Cloning Miranda\*](#), 2015 WIS. L. REV. 863 (2015).
- [\*The Social Medium: Why the Authentication Bar Should Be Raised For Social Media Evidence\*](#), TEMPLE L. REV. ONLINE (2014) (with Charles White).
- [\*Contents May Have Shifted: Disentangling the Best Evidence Rule from the Rule Against Hearsay\*](#), 71 WASH. & LEE L. REV. ONLINE 180 (2014)
- [\*No Explanation Required?: A Reply to Jeffrey Bellin's eHearsay\*](#), 98 MINN. L. REV. HEADNOTES 34 (2013).
- [\*Anchors Aweigh: Why the Anchoring Effect Suggests That Judges Should Be Able to Participate in Plea Discussions\*](#), 54 B.C. L. REV. 1667 (2013) (Winner of the 2013 SEALS Call for Papers).
- [\*Justice of the Peace?: Why Federal Rule of Evidence 404\(a\)\(2\)\(C\) Should be Repealed\*](#), 91 N.C. L. REV. 1161 (2013).
- [\*Beware of the Diamond Dogs: Why a "Credentials Alone" Conception of Probable Cause Violates the Compulsory Process Clause\*](#), 14 LOY. J. PUB. INT. L. 243 (2013) (invited symposium essay).
- [\*The Purpose Driven Rule: Drew Peterson, Giles v. California, and the Transferred Intent Doctrine of Forfeiture by Wrongdoing\*](#), 112 COLUM. L. REV. SIDEBAR 228 (2012).
- [\*Bullshit!: Why the Retroactive Application of Federal Rules of Evidence 413-414 and State Counterparts Violates the Ex Post Facto Clause\*](#), 4 NEB. L. REV. BULL. 3 (2012).
- [\*Avoiding a Confrontation?: How Courts Have Erred in Finding That Nontestimonial Hearsay is Beyond the Scope of the Bruton Doctrine\*](#), 77 BROOK. L. REV. 625 (2012).
- [\*No Expertise Required: How D.C. Has Erred in Expanding its Expert Testimony Requirement\*](#), 39 RUTGERS L. REC. 55 (2011-2012).
- [\*Deal or No Deal: Why Courts Should Allow Defendants to Present Evidence That They Rejected Favorable Plea Bargains\*](#), 59 U. KAN. L. REV. 407 (2011).
- [\*Lawyers, Guns, and Money: Why the Tibbitts Amendment's Ban on the Admissibility of ATF Trace Data in State Court Actions Violates the Commerce Clause and the Tenth Amendment\*](#), 2010 UTAH L. REV. 665 (2010).
- [\*Stranger Than Dictum: Why Arizona v. Gant Compels the Conclusion that Suspicionless Buick Searches Incident to Lawful Arrests Are Unconstitutional\*](#), 62 BAYLOR L. REV. 1 (2010).
- [\*Crossing Over: Why Attorneys \(and Judges\) Should Not be Able to Cross-Examine Witnesses Regarding Their Immigration Statuses for Impeachment Purposes\*](#), 104 NW. U. L. REV. COLLOQUY 290 (2010).
- [\*Dismissed with Prejudice: Why Application of the Anti-Jury Impeachment Rule to Allegations of Racial, Religious, or Other Bias Violates the Right to Present a Defense\*](#), 61 BAYLOR L. REV. 872 (2009).
- [\*Impeachable Offenses?: Why Civil Parties in Quasi-Criminal Cases Should be Treated Like Criminal Defendants Under the Felony Impeachment Rule\*](#), 36 PEPP. L. REV. 997 (2009).
- [\*A Public Privilege\*](#), 118 YALE L.J. POCKET PART 166 (2009).

- [\*Even Better than the Real Thing: How Courts Have Been Anything But Liberal in Finding Genuine Questions Raised as to the Authenticity of Originals Under Rule 1003\*](#), 68 MD. L. REV. 160 (2008).
- [\*Ordeal By Innocence: Why There Should Be a Wrongful Incarceration/Execution Exception to Attorney-Client Confidentiality\*](#), 102 NW. U. L. REV. COLLOQUY 391 (2008).
- [\*“Manifest” Destiny?: How Some Courts Have Fallaciously Come To Require A Greater Showing Of Congressional Intent For Jurisdictional Exhaustion Than They Require For Preemption\*](#), 2008 BYU L. REV. 169 (2008).
- [\*The Best Offense is a Good Defense: Why Defendants’ Nolo Contendere Pleas Should Be Inadmissible Against Them When They Become Civil Plaintiffs\*](#), 75 U. CIN. L. REV. 725 (2006).
- [\*“Caveat Prosecutor”?: Where Courts Went Wrong in Applying Robertson’s Two-Tiered Analysis to “Plea Bargaining” and How to Correct Their Mistakes\*](#), 32 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 209 (2006).
- [\*A Shock to the System: Analyzing The Conflict Among Courts Over Whether and When Excited Utterances May Follow Subsequent Startling Occurrences In Rape And Sexual Assault Cases\*](#), 12 WM. & MARY J. WOMEN & L. 49 (2005).
- [\*Banishment From Within and Without: Analyzing Indigenous Sentencing Under International Human Rights Standards\*](#), 80 N.D. L. REV. 253 (2004).
- [\*A Wolf in Sheep’s Clothing: Wolf v. Ashcroft and the Constitutionality of Using the MPAA Ratings to Censor Films in Prison\*](#), 6 VAND. J. ENT. L. & PRAC. 265 (2004).
- [\*Inadmissible but Material? Resolving the Circuit Split After Wood\*](#), [International Commentary on Evidence](#) (2004).
- [\*A Death By Any Other Name: The Federal Government’s Inconsistent Treatment of Drugs Used in Lethal Injections and Physician-Assisted Suicide\*](#), 17 J.L. & HEALTH 217 (2002-03).
- [\*Escape from New York: Analyzing the State’s Relative Interests in Proscribing the Withdrawal of Life Support and Physician Assisted Suicide\*](#), 11 WM. & MARY BILL RTS. J. 779 (2003).

### **BLOGGING/PODCASTING:**

- Creator and Blog Editor, **EvidenceProf Blog** (<http://lawprofessors.typepad.com/evidenceprof>) (member of the ABA Blawg 100 in 2014, 2015, 2016 and 2017; 15.5+ million page views).
- Co-Creator/Co-Host, **Undisclosed Podcast** (<http://undisclosed-podcast.com>) (podcast covering cases of possible wrongful convictions; 375+ million downloads and one of the 25 most downloaded podcasts in 2015 and 2016; exonerations: (1) Shaurn Thomas; (2) Terrance Lewis; (3) Willie Veasy; (4) Chester Hollman III; (5) Charles Ray Finch; (6) Theophalis Wilson; (7) Jonathan Irons; (8) Dennis Perry; (9) Ronnie Long; (10) Joseph Webster; (11) Darrell Ewing; (12) Joey Watkins; (13) Adnan Syed; (14) Jeff Titus).

### **OTHER PUBLICATIONS & WRITINGS:**

- [\*The Strategic Use of Alibi Defenses\*](#) (book chapter) (with Kay Levine).
- [\*Amici Curiae Brief\*](#) for *Guillen v. United States*, S.Ct. No. 20-2004, October 26, 2021.
- [\*Amici Curiae Brief\*](#) for *Johnson v. Indiana*, S.Ct. No. 20-7612, April 26, 2021.
- [\*Amici Curiae Brief\*](#) for *Caniglia v. Strom*, S.Ct. No. 20-157, January 15, 2021 (9-0 ruling in favor of position advanced in brief).
- [\*Certiorari\*](#) and [\*Merits-Stage\*](#) *Amici Curiae* Briefs for *Torres v. Madrid*, S.Ct. No. 19-292, October 4, 2019, and February 7, 2020 (5-3 ruling in favor of position advanced in briefs).

- [Amici Curiae Brief](#) for *Rhines v. Young*, S.Ct. No. 18-8029, March 25, 2019.
- [Amici Curiae Brief](#) for *Alvarez v. City of Brownsville*, S.Ct. No. 18-854, January 22, 2019.
- Primary Editor, [Trial Objections Handbook](#) (with Roger Park and Aviva Orenstein).
- Co-Editor, [South Carolina Civil Procedure](#) (standard reference manual on South Carolina Rules of Civil Procedure).
- [Amici Curiae Brief](#) for *Terrence Byrd v. United States*, S.Ct. No. 16-1371, November 20, 2017 (9-0 ruling in favor of position advanced in brief).
- Evidence Casebook, [eLangdell Project](#) e-chapters.
- Primary Editor, Updates to Criminal Law & Procedure Benchbook used by Illinois Judges, fall 2011.
- Primary Editor, ILLINOIS CRIMINAL PROCEDURE, 5<sup>th</sup> Edition, fall 2010; editor of annual supplements.
- *Amicus Curiae* Brief for *Kerry Dean Benally v. United States*, S.Ct. No. 09-5429, August 21, 2009.
- *Comparison Between the Federal Rules of Evidence and Illinois Evidentiary Principles*, 100-page report for the Special Committee on Illinois Evidence for use in creation of Illinois Rules of Evidence, which went into effect 1/1/2011.
- Question Drafter and Expert Reviewer for National Conference of Bar Examiners, 2009-present.

#### **Recent Pro Bono Work:**

- Drafted legislation that became a South Carolina law requiring printing of a suicide hotline number on student IDs.
- Provided *pro bono* assistance to the family of Breonna Taylor in a civil action that led to a \$12 million settlement and reforms in the Louisville Metro Police Department.
- Provided *pro bono* assistance to the family of Andre’ Hill in a civil action that led to a \$10 million settlement and the passage of Andre’s Law.
- Drafted legislation that became a South Carolina law banning the shackling of pregnant inmates.
- Drafted legislation that became a Nebraska law allowing expert testimony on issues with eyewitness identifications.
- Provided *pro bono* assistance to Adrienne Miller, who received a Presidential pardon.
- Drafted successful Compassionate Release Motions for Craig Cesal, Frank Merold, Juanita Lawson, and Diana Marquez.
- Created the Suits for Success Program, which facilitates the donation of new and nearly-new professional clothing and accessories to law students for internships and jobs.

#### **EDUCATION:**

***William and Mary School of Law***, Williamsburg, Virginia  
J.D., May 2003, G.P.A. 3.8; Class Rank: #2/168; Order of the Coif

- Honors &** • **William and Mary Law Review**, Editor;  
**Activities:** • **William and Mary Bill of Rights Journal**, Senior Articles Editor  
 • William & Mary National Moot Court Team

***University of Virginia***, Charlottesville, Virginia  
B.A. with Distinction, Political and Social Thought, May 1999

**Honors:** •Echols Scholar