of the question of the identity of the perpetrator." *Id.* Judge West found Mr. Porter's argument based on touch DNA to be "purely speculative." MT 3/21/22 at 16. In doing so Judge West refused to acknowledge the crime scene photograph we offered in which the duct tape in question is plainly saturated with blood, which surely constitutes biological material. Crime Scene Photographs (Appendix F). Judge West was also unpersuaded by the fact that the Marysville Police Department clearly identified biological material on the duct tape in the form of one human hair. Marysville Police Depart Report, 73 (Appendix G).

Judge West also denied Mr. Porter's due process claim to the evidence under *District Attorney's Office v Osborne*, noting only that he found the due process argument "to be unpersuasive under the circumstances of the case" MT 3/21/22 at 21.

Argument

Introduction and Summary of Argument

The Michigan Legislature, the Michigan Supreme Court, and this Court have all recognized the need for a robust legal scheme for access to potentially exonerating evidence. The State Legislature enacted MCL 770.16 in 2001 with the aim of providing individuals that are incarcerated for a felony conviction with a means to access the evidence collected during the investigation leading to the conviction, in order to conduct DNA testing on that evidence using the more sensitive technology that has become available since the time of the investigation that led to the conviction. MI. F.H.A. B. An., S.B. 1395.

MCL 770.16 lays out four elements that must be met to gain access to evidence that may contain biological material. Mr. Porter's request met all four of those elements: (1) There was biological material collected and identified during the original investigation; (2) The evidence presented for testing is material to the identity of the perpetrator; (3) The duct tape in question – the material evidence – is

available for testing and was not subject to DNA testing initially; and (4) Mr. Porter's identity as the perpetrator was an issue at trial. Therefore, the trial court erred in denying Mark Porter's motion.

A reasonable reading of MCL 770.16 further allows petitioners to have the material evidence – the duct tape – examined to determine whether biological material exists, before asking for DNA testing or a new trial based on the results.

MCL 770.16 was created to allow for old evidence to be tested–or retested–using new technology. In many cases, forensic examiners would not have looked for entire catagories of biological material because the technology did not exist to identify such material. In 1995, when Mr. Porter was arrested, touch DNA technology was years away from being widely available to the police. We have identified possible biological material in the form of touch DNA that may be on the duct as a result of the perpetrator handling the tape while subduing the victims. Therefore, even if the trial court found that Mr. Porter did not meet all four requirements of MCL 770.16, the trial court still erred in refusing to grant Mr. Porter's motion.

Finally, if MCL 770.16 cannot be read to grant petitioner access to material evidence in order to test for the presence of biological material that could not have been identified during the initial investigation, then the trial court, in denying Mr. Porter's motion, violated Mr. Porter's Fourteenth Amendment Due Process right to reasonable access to evidence that could prove his innocence, as established by *District Attorney's Office v Osborne*.

Standard of Review

This Court should review the Circuit Court's decision de novo as this case presents issues of statutory interpretation, which are questions of law. *Lesner v. Liquid Disposal, Inx.,* 455 Mich 95, 99-

100; 643 NW2d 533, 555 (2002); *See also Levy v Martin*, 463 Mich. 478, 482, n. 12, 620 N.W.2d 292 (2001); *Donajkowski v Alpena Power Co*., 460 Mich. 243, 248, 596 N.W.2d 574 (1999).

I. Judge West Erred First In Concluding That Mr. Porter Did Not Meet His Burden Of Alleging That DNA Was Collected During The Investigation

Judge West's first erred in concluding that Mr. Porter did not satisfy the requirement of the MCL 770.16(3), that the defendant must allege that "biological material was collected during the investigation of the defendant's case." *Id.* He did so despite Mr. Porter's attorneys' repeated attempts to show him crime scene photographs in which the duct tape in question is clearly visible and saturated with blood. Crime Scene Photographs (Appendix G). Judge West refused to look at the picture stating that he was not an expert and could not "tell if something with a photograph has biological material on it." Hearing Transcript 5:25-6:1 (Appendix H). He stated, "I don't know how you can unless you have qualifications to make that determination." *Id.* at 5:25-6:2. In doing so, Judge West erroneously added an additional prong to MCL 770.16(3) by requiring that an expert make the initial determination that biological material was collected.

There is no such requirement in the language of the statute nor is there any reason to read one in. The term biological material means, among other things, "human products, including blood, tissues, bodily fluids, clinical specimens." https://safety.ucanr.edu/Plans,_Forms_and_Templates/Biosecurity_Survey/Biological_materials_definition/. Since blood is included in this definition and since blood is visible on the tape in the photograph provided to the court there is no need for an expert to confirm that this qualifies as biological material.

II. Judge West Next Erred In His Interpretation Of The Plain Language of MCL 770.16(4)(a)

Judge West also erred in, after assuming *arguendo* that the blood does in fact constitute biological material satisfying MCL 770.16(3), finding that Mr. Porter had not satisfied his burden under MCL 770.16(4)(a). That section states that the court shall order DNA testing if the defendant "presents prima facie proof that the evidence sought to be tested is material to the issue of the convicted person's identity as the perpetrator of the crime." *Id.*

Judge West concluded that since the blood on the duct tape might have come from the victim rather than the perpetrator, Mr. Porter could not satisfy the materiality prong of this section of the statute. Hearing Transcript 12:19-24 (Appendix G). In doing so Judge West conflates the words *biological material* used in MCL 770.16(3), with the word *evidence* used in MCL 770.16(4).

The Michigan Supreme Court has stated that the goal of statutory interpretation is to give effect to the intent of the legislature from the plain language of the statute. *People v. Williams*, 475 Mich. 245, 250, 716 N.W.2d 208 (2006).

MCL 770.16(3) requires Mr. Porter to show that biological material was collected during the investigation, which he did when he offered the court the photograph of the duct tape saturated with blood and the police report identifying the human hair recovered from the surface of the duct tape. Once Mr. Porter has reached this threshold showing that there was biological material collected from that evidence, MCL 770.16(4)(a) only requires that he show that evidence (the tape), not the biological material itself (the blood), is material to the identity of the perpetrator. The tape is material to the identity of the perpetrator because it is undisputed that the perpetrator of this crime bound the Wendels using this tape and thus, if the touch-DNA of someone other than Mr. Porter or the victims were found on that tape, it would logically follow that this other person was the true perpetrator.

Judge West's interpretation, on the other hand, would require the defendant to show that the biological material identified in 770.16(3) is itself material to the perpetrators identity as required by

770.16(4)(a). This interpretation runs contrary to the plain language of the statute, which distinguishes between the biological material referred to in 770.16(3) and the evidence referred to in 770.16(4)(a).

The term "biological material" is written 22 times throughout the statute and the word "evidence" is used 4 times. However, Judge West's interpretation assumes that the legislature intended no difference in meaning between "biological material" and "evidence." This contradicts the canon of consistent usage, a fundamental precept of statutory construction, which requires courts to construe statutes so that when the legislature uses different words at various points in a statute those "different words have different meanings." *Honigman Miller Schwartz & Cohn LLP. City of Detroit*, 505 Mich. 284, 323, 952 N.W.2d 358, 378 (2020); *See also* Scalia & Garner, *Reading Law: The Interpretation of Legal Texts*, (St. Paul: Thomson/West, 2012), § 25; 2A Sutherland, *Statutes and Statutory Construction*, § 46:6, p. 261 ("Different words used in the same, or a similar, statute are assigned different meanings whenever possible.").

A more faithful reading of the statute would require the defendant to show that, under MCL 770.16(3), *biological material* was found on the evidence sought to be tested. And once the defendant has made that showing, they can, under MCL 770.16(4)(a), then test the entirety of the *evidence*, where the biological material was found, so long as the *evidence* itself is material to the identity of the perpetrator. Mr. Porter satisfies 770.16(3) by showing that blood, clearly biological material, was found on the tape. He can therefore test the tape, not merely the blood itself, since the tape is the evidence material to the identity of the perpetrator under 770.16(4).

a. The legislature intended to allow testing of material evidence and not just the biological material on the evidence

A reading of MCL 770.16 that allows for the testing of material evidence would also be more faithful to the Michigan case law that exists on this topic. *People v. Poole,* 311 Mich.App. 296 (2015), and *People v. Barrera,* 278 Mich.App. 730 (2008), have both clarified the legislature's intent in drafting MCL 770.16. In *Barrera*, the court considered the materiality prong of MCL 770.16. The petitioner in that case requested the testing of not only the biological material, but also of the evidence containing the biological material. In order to meet the requirements of MCL 770.16, the court said that the "defendant must show that all *the items containing DNA matter* he seeks to be tested are material to establishing the identity of the perpetrator of the rape. To do so, defendant must link *the DNA-stained evidence* to both the crime and the criminal." *Barrera,* 278 Mich.App. 730, 738 (emphasis added). In determining whether the DNA-stained evidence is material to the identity of the perpetrator of the crime, "there must be some logical relationship between the evidence sought to be tested and the issue of identity." *Id* at. 737.

The requirement of MCL 770.16(3) that there be biological material collected and identified during the original investigation is only the first step in the inquiry under MCL 770.16. Once it has been established that there is biological material, the inquiry switches to consideration of the materiality of "*the evidence*" sought to be tested under MCL 770.16(4)(a). In enacting MCL 770.16, it is apparent that the legislature wanted to avoid overburdening the courts with fishing expeditions in which defendants seek to test only tenuously related physical evidence on the off chance there is relevant material. In a case where the defendant can establish that there is evidence which contains biological material, that the perpetrator necessarily handled evidence during the commission of the crime in question, in circumstances where there was no biological or forensic evidence linking the defendant to the crime presented at trial, that concern is unfounded.

In this case, Mr. Porter can prove that the evidence he seeks to have tested is material to the identity of the perpetrator of the crime he was convicted for. There is currently biological material on

the evidence – the duct tape. MCL 770.16 read as intended allows Mr. Porter to access this duct tape to determine whether there is sufficient biological material on it that can be used to create a DNA profile. In 1995, the idea that the tape could be analyzed for touch DNA was never considered, so we have no way of knowing whether such evidence is available. However, the other biological material is similarly relevant to the identity of the perpetrator, and more importantly, shows that the tape – the evidence containing the biological material – is material to the defendant's identity as the perpetrator of this crime.

III. In the Alternative, Mr. Porter Also Has A Due Process Right To Reasonable Access To The Evidence.

Judge West also erred in his analysis of the Fourteenth Amendment Due Process Clause right of petitioners to access evidence that may prove their innocence, given that the state provides a framework for DNA testing of evidence, a right Michigan established in MCR 6.501, *et seq*., and MCL 770.16.

When such a right is codified in statute, defendants acquire a due process liberty interest in reasonable access to the evidence that might prove their innocence. *District Attorney's Office v Osborne*, 557 US 52, 68; 129 S Ct 2308; 174 L Ed 2d 38 (2009) (concluding that the defendant had "a liberty interest in demonstrating his innocence with new evidence under state law," and that Alaska law provide sufficient access to the evidence he wished to test).

The trial court, after concluding that MCL 770.16 does not entitle Mr. Porter to the testing he seeks rendering Michigan's statutory scheme constitutionally inadequate, subsequently erred in denying Mr. Porter's motion for the inspection and testing of the duct tape under the Due Process Clause of the Fourteenth Amendment. Mr. Porter has a due process right to such inspection and

testing, given his "liberty interest in demonstrating [his] innocence with new evidence under state law." *Osborne*, 557 US at 68.

MCL 770.16 must allow convicted individuals to test material evidence for the presence of biological material that was never searched for during the original investigation. If it does not, then large categories of currently testable biological material will never be identified.

Touch DNA is such a category of currently testable material that would not have been on investigator's radar in 1995. The duct tape at issue here was never analyzed for DNA evidence, it was analyzed for the presence of trace evidence, some of which was recovered – including the brown human hair referenced earlier. If petitioners are not allowed to examine material evidence for the presence of newly identifiable biological material, then it would be impossible to test any evidence for such material where the evidence was examined before the technology that can identify such material became available, negating the intention of the statute and the statutory scheme developed by the legislature.

CONCLUSION AND RELIEF REQUESTED

For all of the reasons explained in this Application, Mr. Porter respectfully asks this Court to: (1) grant Application for Leave to Appeal; (2) vacate the trial court order denying his motion for inspection and retesting of physical evidence and remand the case for rehearing under the proper standard; or (3) summarily reverse the trial court's order and grant his underlying motion.

Applicant Details

First Name	**Katherine**
Middle Initial	**M**
Last Name	**Culver**
Citizenship Status	**U. S. Citizen**
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Contact Phone Number	**3175136917**

Applicant Education

BA/BS From	**Princeton University**
Date of BA/BS	**June 2010**
JD/LLB From	**Yale Law School** **https://www.nalplawschools.org/content/OrganizationalSnapshots/OrgSnapshot_225.pdf**
Date of JD/LLB	**June 1, 2017**
Class Rank	**School does not rank**
Law Review/ Journal	**Yes**
Journal(s)	**Yale Jounal of Law and Feminism**
Moot Court Experience	**No**

Bar Admission

Admission(s)	**Pennsylvania**

Prior Judicial Experience

Judicial Internships/ Externships	**No**
Post-graduate Judicial Law Clerk	**Yes**

Specialized Work Experience

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This applicant has certified that all data entered in this profile and any application documents are true and correct.

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June 14, 2023

The Honorable Kiyo A. Matsumoto
United States District Court for the Eastern District of New York
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, NY 11201-1818

Dear Judge Matsumoto:

I am writing to apply for a clerkship in your chambers for the term beginning in October 2025. I am a graduate of Yale Law School, recently admitted to the bar in Pennsylvania, and will begin a clerkship with the Honorable Andrew D. Hurwitz (9th Cir.) in August 2024.

I am seeking a career as a litigator in the public sector, and I am eager to gain experience in the practical aspects of litigation in federal court at the trial level. I am enthusiastic to do so in the Eastern District, given the complexity and public significance of cases on its docket.

Because my background is atypical, I wish to explain my interest in a clerkship. As my résumé indicates, I am currently completing my PhD in anthropology at the University of Pennsylvania. I undertook this PhD jointly with my JD with the original intention of pursuing a career as an academic anthropologist of law. Following graduation from YLS, I left to conduct 19 months of research on rule of law in Cambodia and then returned to analyze my data and prepare the results in a dissertation.

Through my work with young lawyers and judges there, I realized that I would find it more rewarding to use my knowledge and experience to solve clients' problems. I am completing the PhD program because I am committed to seeing my research through to publication, but I am now pursuing a career as an attorney.

Thanks to my PhD training, I am adept at digesting and synthesizing large amounts of information on unfamiliar topics, and I can clearly communicate complex ideas in writing at varying lengths and levels of depth. In addition, carrying out a long-term empirical research project in a foreign country reinforced my adaptability and ability to problem-solve independently.

My résumé, transcripts, and writing sample are submitted with this application. Professors Jean Koh Peters, Claire Priest, and James Whitman are submitting letters of recommendation on my behalf. I would welcome the opportunity to interview with you and look forward to hearing from you. Thank you for your consideration.

Sincerely,

Katherine Culver

KATHERINE M. CULVER

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801 S. 47th St., Apt. 305
Philadelphia, PA 19143

BAR ADMISSION

Pennsylvania, 2023

EDUCATION

YALE LAW SCHOOL, New Haven, CT
J.D., June 2017
Activities: Yale Journal of Law and Feminism (Articles Editor), Lowenstein International Human Rights Clinic

UNIVERSITY OF PENNSYLVANIA, Philadelphia, PA
Ph.D., expected 2023, Candidate in Legal and Linguistic Anthropology
Fellowships: The Andrea Mitchell Center for the Study of Democracy, Fulbright-Hays DDRA

PRINCETON UNIVERSITY, Princeton, NJ
A.B., Philosophy, *magna cum laude*, June 2010
Honors: Phi Beta Kappa, Berman Society for Undergraduate Fellows

LEGAL EXPERIENCE

HON. ANDREW D. HURWITZ, U.S. Court of Appeals for the Ninth Circuit, Phoenix, AZ August 2024 – 2025
Prospective Law Clerk

PHILADELPHIA LEGAL ASSISTANCE, Philadelphia, PA
Volunteer Legal Advocate, Medical Legal Community Partnership February 2015 – May 2016
Managed a caseload of 10 clients, using Legal Server case management software, at a city public health center. Conducted intake interviews to assess clients' legal issues. Researched state and federal public benefits regulations to assist clients with SNAP, Medicaid, and SSDI applications involving denials and questions of eligibility based on immigration status.

JEROME N. FRANK LEGAL SERVICES ORGANIZATION, Yale Law School, New Haven, CT
Law Student Intern and Student Director, Immigration Legal Services Clinic Fall 2013 – Spring 2014
Represented client through the affirmative asylum process; client was granted asylum. Researched and wrote brief addressing whether sexual orientation qualified as "a particular social group" under 8 CFR §208.13; interviewed witnesses and prepared supporting affidavits; and presented oral argument at the client's asylum interview. As a Student Director, prepared memoranda on two emergent and novel ethics questions arising under the Connecticut Rules of Professional Conduct.

ARTHUR LIMAN PUBLIC INTEREST PRACTICUM, Yale Law School, New Haven, CT
Law Student Intern Spring 2013 – Spring 2014
Conducted research, interviews, and advocacy with inmates of two federal women's prisons on the impact of geographic location on visitation. Researched case law on inmate civil rights regarding prison conditions and sex discrimination in prison administration. With group members, prepared a report titled *"Dislocation and Relocation: Women in the Federal Prison System and Repurposing FCI Danbury for Men"* and presented it to Senators Richard Blumenthal and Chris Murphy.

LAW-RELATED RESEARCH AND TEACHING EXPERIENCE

ROYAL UNIVERSITY OF LAW AND ECONOMICS, Phnom Penh, Cambodia
Ethnographer – Dissertation Field Research Summer 2013, Summer 2016, February 2018 – September 2019
Independently designed and conducted a study of Cambodian law and legal practice. Conducted English- and Khmer-language interviews with ca. 100 Cambodian lawyers and judges, successfully navigating cultural taboos around discussing sensitive political topics. Researched Cambodian statutes and court decisions; liaised with law firms; courts; government agencies; international development aid organizations; NGOs; and judicial and bar association training programs. Dissertation, "*Transnational Rule-of-Law Discourse and the Development of Legal Infrastructure in Cambodia*," and related publications forthcoming.

Adjunct Lecturer, English Language Based Bachelor of Law Program May 2018 – January 2019
Designed and taught courses on Legal Methods and Analysis and Legal Writing, adapting American legal textbooks for Cambodian students. Assisted in coaching international moot court and arbitration competition teams.

COURT OF COMMON PLEAS, Philadelphia, PA
Ethnographer – Doctoral Field Research May 2012 – August 2012
Designed and conducted a study of juror decision-making and interpretation of jury instructions. Interviewed judges, court staff, and ca. 20 jurors; and observed several trials (incl. homicide, sexual assault, DUI, gun possession) and voir dire in multiple courtrooms. Results published in peer-reviewed journal: Katherine Culver, Courting Legitimacy: Enregistering Legal Reasoning among U.S. Criminal Trial Jurors, 5 *Signs & Soc'y* 1 (2017).

SKILLS/INTERESTS

I enjoy travel, learning languages, singing, chamber music, hand embroidery, and longform journalism.

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Degree Awarded : Juris Doctor 31-MAY-2017

SUBJ	NO.	COURSE TITLE	UNITS	GRD	INSTRUCTOR
Fall 2012					
LAW	10001	Constitutional Law I:Section B	4.00	CR	R. Hills
LAW	11001	Contracts I: Group 4	4.00	CR	Y. Listokin
LAW	12001	Procedure I: Section A	4.00	CR	D. Elliott
LAW	13001	Torts I: Section B	4.00	CR	P. Schuck
		Term Units 16.00	Cum Units 16.00		
Spring 2013					
LAW	21044	Comparative Law	4.00	H	J. Whitman
LAW	21193	Human Rights Workshop	1.00	CR	J. Silk
LAW	21300	Criminal Law & Administration	3.00	P	D. Kahan
LAW	21596	Liman Publ Interest Practicum	2.00	CR	H. Metcalf, N. Rabin, S. Sanneh
LAW	21709	American Indian Tribal Law	3.00	H	E. Fidell
Substantial Paper					
LAW	30026	Journal of Law & Feminism	1.00	CR	S. Journal
LAW	30028	Yale Human Rights Journal	1.00	CR	S. Journal
		Term Units 15.00	Cum Units 31.00		
Fall 2013					
LAW	20016	Immigration Legal Services	3.00	CR	J. Peters, H. Zonana, C. Lucht
LAW	20269	International Criminal Law	2.00	H	M. Damaska
LAW	20359	Crim Pro:Charging&Adjudic	4.00	H	K. Stith
LAW	20625	Legal Pluralism & Global Law	2.00	H	A. Stone Sweet, G. della Cananea
LAW	20632	LimanPublicInterestPracticum	2.00	CR	J. Resnik, M. Quattlebaum, H. Metcalf
		Term Units 13.00	Cum Units 44.00		
Spring 2014					
LAW	21152	Lowenstein Int'l. Hum. Rights	3.00	CR	J. Silk, H. Metcalf
LAW	21168	AdvImmigrationLegalServsClinic	1.00	H	J. Peters, H. Zonana, C. Lucht
LAW	21508	Law and Globalization	2.00	H	A. Stone Sweet, P. Zumbansen
LAW	21596	Liman Publ Interest Practicum	2.00	CR	J. Resnik, M. Quattlebaum, H. Metcalf
LAW	21748	Remedies	4.00	P	N. Parrillo
LAW	40001	Supervised Research	2.00	H	A. Stone Sweet
		Term Units 14.00	Cum Units 58.00		
Sup. Research: Global Constitutionalism					
Spring 2016					
LAW	40006	Joint Degree Credits from University of Pennsylvania	12.00	CRG	
		Term Units 12.00	Cum Units 70.00		
Fall 2016					
LAW	20010	History of the Common Law	3.00	H	J. Langbein
LAW	20170	Administrative Law	4.00	P	J. Mashaw
LAW	20207	Property	4.00	H	C. Priest
LAW	20373	Democratic Constitutionalism	2.00	P	R. Post, R. Siegel

********** CONTINUED ON PAGE 2 **********

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Page: 2

SUBJ	NO.	COURSE TITLE	UNITS	GRD	INSTRUCTOR
Institution Information continued:					
LAW	40001	Supervised Research	3.00	H	C. Priest
		Supervised Analytic Writing			
		Term Units 16.00	Cum Units	86.00	

Sup. Research: Understanding Bias in Legal Decision-Making In U.S. Criminal Jury Trials.

Comments:
Fall 2013: Joint degree with the University of Pennsylvania.

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YALE LAW SCHOOL
P.O. Box 208215
New Haven, CT 06520

EXPLANATION OF GRADING SYSTEM

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HONORS	Performance in the course demonstrates superior mastery of the subject.
PASS	Successful performance in the course.
LOW **P**ASS	Performance in the course is below the level that on average is required for the award of a degree.
CREDIT	The course has been completed satisfactorily without further specification of level of performance. All first-term required courses are offered only on a credit-fail basis. Certain advanced courses are offered only on a credit-fail basis.
FAILURE	No credit is given for the course.
CRG	Credit for work completed at another school as part of an approved joint-degree program; counts toward the graded unit requirement.
RC	Requirement completed; indicates J.D. participation in Moot Court or Barrister's Union.
T	Ungraded transfer credit for work done at another law school.
TG	Transfer credit for work completed at another law school; counts toward graded unit requirement.
EXT	In-progress work for which an extension has been approved.
INC	Late work for which no extension has been approved.
NCR	No credit given because of late withdrawal from course or other reason noted in term comments.

Our current grading system does not allow the computation of grade point averages. Individual class rank is not computed. There is no required curve for grades in Yale Law School classes.

Classes matriculating September 1968 through September 1986 must have successfully completed 81 semester hours of credit for the J.D. (Juris Doctor) degree. Classes matriculating September 1987 through September 2004 must have successfully completed 82 credits for the J.D. degree. Classes matriculating September 2005 to date must have successfully completed 83 credits for the J.D. degree. A student must have completed 24 semester hours for the LL.M. (Master of Laws) degree and 27 semester hours for the M.S.L. (Master of Studies in Law) degree. The J.S.D. (Doctor of the Science of Law) degree is awarded upon approval of a thesis that is a substantial contribution to legal scholarship.

For Classes Matriculating 1843 through September 1950

80 through 100 = Excellent
73 through 79 = Good
65 through 72 = Satisfactory
55 through 64 = Lowest passing grade
0 through 54 = Failure

To graduate, a student must have attained a weighted grade of at least 65.

For Classes Matriculating September 1951 through September 1955

E = Excellent
G = Good
S = Satisfactory
F = Failure

To graduate, a student must have attained a weighted grade of at least Satisfactory.

For Classes Matriculating September 1956 through September 1958

A = Excellent
B = Superior
C = Satisfactory
D = Lowest passing grade
F = Failure

To graduate, a student must have attained a weighted grade of at least D.

From September 1959 through June 1968

A = Excellent
B+
B = Degrees of Superior
C+
C = Degrees of Satisfactory
C-
D = Lowest passing grade
F = Failure

To graduate a student must have attained a weighted grade of at least D.

From September 1968 through June 2015

H = Work done in this course is significantly superior to the average level of performance in the School.
P = Successful performance of the work in the course.
LP = Work done in the course is below the level of performance which on the average is required for the award of a degree.

CR = Grade which indicates that the course has been completed satisfactorily without further specification of level of performance. All first-term required courses are offered only on a credit-fail basis. Certain advanced courses offered only on a credit-fail basis.
F = No credit is given for the course.

RC = Requirement completed; indicates J.D. participation in Moot Court or Barrister's Union.
EXT = In-progress work for which an extension has been approved.
INC = Late work for which no extension has been approved.
NCR = No credit given for late withdrawal from course or for reasons noted in term comments.

CRG = Credit for work completed at another school as part of an approved joint-degree program; counts toward the graded unit requirement.
T = Ungraded transfer credit for work done at another law school.
TG = Transfer credit for work completed at another law school; counts toward graded unit requirement.
*Provisional grade.

Copy of Official Transcript

June 15, 2023

The Honorable Kiyo Matsumoto
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, NY 11201-1818

Re: Katherine Culver

Dear Judge Matsumoto:

I am writing to enthusiastically recommend Katherine Culver for a clerkship in your chambers. Katherine will bring excellent writing skills, good judgment, and incredible enthusiasm to bear on all of her projects. If I were a judge, Katherine would be exactly the type of law clerk I would want to have: Someone who is a highly talented legal writer, who is creative and smart, upbeat and personable, mature and dependable, and who has an independent set of academic interests that give her a great deal to share intellectually. In her time at Yale Law School, Katherine was someone I identified with more as a colleague than as a student. Katherine's critical analytic and legal writing skills will make her a wonderful lawyer. In sum, she is a truly special candidate.

I met Katherine in my advanced Property class in which I limited enrollment to eighteen and required a research paper. Katherine was a terrific student in the class. She jumped in frequently with astute and engaging comments. I always enjoyed talking with her about the course and her independent interests in office hours. Her research paper presented a novel and fascinating account of how race informs criminal jury deliberations. The paper drew on post-trial interviews conducted with jurors from Philadelphia's Court of Common Pleas. It provides evidence for a dual aspect of racial difference in jury deliberations: jurors view racial bias as undermining the system, yet at the same time value racial differences in the composition of the jury, and valued the experience of hearing from diverse perspectives as they served on a jury. As Katherine summarizes "this dual aspect of racial difference in criminal jury deliberations mirrors broader tensions in the liberal-democratic ideologies that animate American political discourse, in which racial difference is alternately something to be celebrated and something that, through 'identity politics,' threatens social order." Her insights are increasingly relevant to important legal questions such as affirmative action and racial bias in employment.

Katherine has gone on to engage in a tremendous study of the rule of law in Cambodia. She conducted 18 months of fieldwork in Phnom Penh, Cambodia, and took over 100 hours of interviews with lawyers, judges, law students, and government officials about building legal institutions in Cambodia after the Khmer Rouge. Her dissertation, "Transnational Rule-of-Law Discourse and the Development of Legal Infrastructure in Cambodia," explores how "young legal professionals have taken up the rule-of-law discourse disseminated by transnational aid programs, and how they grapple with their commitments to rule of law while practicing law in a country where the judiciary is notoriously corrupt and widely distrusted—i.e., which lacks rule of law." She successfully completed this fascinating project. Katherine is now enthusiastic about entering law practice. She will bring her incredible talents to lawyering. Again, Katherine is someone who was a star at Yale Law School. She is one of a handful of students who I most enjoy staying in touch with over the years. I smile every time I get the chance to speak with her and discuss her future.

In sum, I believe that Katherine is a fantastic candidate for a clerkship. Yale Law School, of course, has had many excellent students. Katherine stands out as having been in the elite of those students. I predict that the judge who hires her will be thrilled with the decision.

Sincerely,

Claire Priest
Simeon E. Baldwin Professor of Law
Yale Law School

Claire Priest - claire.priest@yale.edu - 203-432-4851

June 14, 2023

The Honorable Kiyo Matsumoto
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, NY 11201-1818

RE: Clerkship Recommendation for ***Katherine Culver***

Dear Judge Matsumoto:

I write in support of the clerkship application of Katherine Culver.

I taught and supervised students representing children and refugee clients at Yale Law School from 1989 to 2019. I also served as a judicial clerk to United States District Judge William P. Gray of the Central District of California from 1982-1983.

I supervised Katherine in the Immigration Legal Services (ILS) clinic from September 2013 to July 2014. In her first semester, she and her partner represented two clients, one in an asylum interview in the New Jersey Asylum office of U.S. Citizenship and Immigration Services. I taught them in a thirteen-session seminar, supervised them at least once weekly in a one-hour meeting, and emailed with them on average four times weekly. I supervised their asylum filings, including an extensive brief for one client, accompanied by a roughly 1.5-foot-tall stack of highlighted annotated exhibits. I also attended the client's asylum interview with the team. As a result of Katherine's work that semester, I asked her to become an ILS student director the next semester. She assisted me in preparing several classes, helped administer the daily work of the clinic, and represented this client, and four others, in what turned out to be an extremely heavy and demanding caseload that semester.

Katherine transferred her brilliant academic skills and mindset to first-rate legal advocacy for refugees presenting complex legal problems with grace and ease, buttressed by daily hard work, exceptional dedication, and interpersonal finesse. She embraced complexity in legal and factual analysis with enthusiasm and dedication, communicated brilliantly across cross-cultural divides, won the trust of her clients, and the affection, admiration and gratitude of all who worked with her. She would be an outstanding judicial clerk.

Katherine's extraordinary legal and interpersonal capacities are illustrated by her exceptional and successful efforts on behalf of her asylum client in her first clinic semester. Our client, a gay man from the Caribbean, fled violence in his home country only to land here with no ability to work, forcing him to rely on the kindness of acquaintances. Our office had recently suffered severe setbacks for another client from the same country with a similar claim in the local Immigration Court, and Katherine and her partner were determined to try to prevail for the client in the Asylum Office, the bureaucratic step before Immigration Court. The team did exhaustive country conditions and legal research into sexual orientation claims from this country, writing an outstanding brief supporting their client's fears. They also, after detecting signs of substantial trauma in their client's presentation, collaborated with a forensic psychiatrist and psychologist to document the trauma, patiently and warmly supporting their client through the rigorous examinations. Because their asylum interview was scheduled directly after Thanksgiving, they created and executed a plan from the start to labor early and hard to finalize their brief and exhibits before the school's ten-day Thanksgiving break. When the forensic evaluations were delayed, they then worked during the break to ensure that we would not miss the deadline for the client. Their brief and exhibits were a model of comprehensiveness and advocacy deeply integrated with fact and client narrative; I indeed assigned it to new students the next semester as I began to teach brief writing. I specifically remember admiring Katherine's drafting and edits, her precision of language, and her ability to apply her clear aptitude for academic writing to a legal advocacy document.

Katherine and her partner showed extraordinary sophistication and finesse in navigating very complex cross-cultural communication with their client and his family. Led by Katherine's research and lead role in interviews with the client's family, the team identified early that, although we, the client, and his family all spoke English, excellent representation required an interpreter/translator who understood the full nuances of English heavily inflected with Jamaican Creole. We were able to convince both the client, his family, and the asylum office to permit us to submit family affidavits translated with the help of a Yale community member fully steeped in the linguistic and socio-economic nuances of Jamaican Creole-inflected English, allowing us to present critical corroborating materials from the client's family.

At the client's interview, the team gave first class support to their client, who courageously narrated his story to a plainly frazzled and rushed asylum officer. Under substantial time pressure from a preoccupied officer, Katherine compactly summarized law of the client's claim with poise and clarity. The officer then noted that she was completely convinced that our client, if gay, would be in danger in his homeland, but asked for additional evidence demonstrating that he is in fact gay. Despite the client's and the team's exhaustion after submitting their comprehensive brief and then preparing for the interview in succession, Katherine and her partner spent the next several days contacting our client's friends around the world and drafting new affidavits on their behalves, as well as taking screenshots of his social media, and presented a new packet of materials to the officer less than a week later. The trio navigated the extremely sensitive waters of sexually explicit dating sites and social media accounts as well as the stress of this high-stakes situation magnificently. Less than ten days later, their client was granted asylum, the same day that our other client suffered an additional setback in the local Immigration Court. I am convinced that Katherine and her partner, by winning this client asylum at the earliest possible moment, could well have saved him a huge ordeal in another, much more difficult forum.

The following semester, Katherine became a student director of ILS and ended up fielding one of the five thorniest ethical

Jean Koh Peters - jean.peters@ylsclinics.org - 203-507-9020

dilemmas I remember facing in my thirty years of clinical teaching. Late in our post-asylum representation of a group of siblings who came to the US derivative of their parent's (our original client's) asylum grant, two of the clients produced previously unseen documents suggesting that they did not actually fulfill the eligibility requirements for derivative asylee status. These documents threatened to provide a basis for stripping the clients of their immigration status and implicated potential duties of disclosure by us under the Rules of Professional Conduct. A third sibling desperately wished to continue her work with the clinic to bring her own children to the United States after a long painful separation. Katherine spearheaded weeks of complex legal research, from state bar ethics opinions on inter-client confidentiality and duties to rectify fraud and to withdraw from representation to in-country document authentication. Working closely with other advanced students in the clinic, they designed a functional, practical solution to one of the most mind-bending, heart-tugging ethical dilemmas I can remember ever encountering. Her weeks of legal research culminated in two comprehensive legal memos, with proposed scripts for presentation of recommendations to the clients, which she, her team and I presented to my clinical colleagues before implementing; as a law firm, we unanimously decided to follow their recommendations, which I believed maximized the welfare of our clients while honoring our duties under the ethical code. I remember one of my colleagues joking that he would keep this memo, hoping never to need it but so impressed by its clarity and comprehensive solution.

In your chambers, Katherine would quietly, capably, and with great modesty belying her legal prowess, deliver first-rate work ahead of schedule, anticipating your needs, relishing the complications of the work, and collaborating beautifully with you and all in your chambers. While meeting the needs of crisis and time-pressured work, she will never fail to bring her deep thoughtfulness, three-dimensional perspectives, and exacting thoroughness to all her analysis. I say this with confidence despite the fact that I'm not sure I could write this detailed an account for quite a few students I have supervised since I worked with Katherine nine years ago; despite my fading memories generally, I remember Katherine vividly because of the high quality of her work and the great pleasure of her collegiality. I offer my extremely strong and enthusiastic recommendation.

Please do not hesitate to contact me at 203-507-9020 if I can offer any additional observation.

Sincerely,

/s/ Jean Koh Peters

JEAN KOH PETERS
Sol Goldman Clinical Professor Emeritus
Of Law

Jean Koh Peters - jean.peters@ylsclinics.org - 203-507-9020

June 14, 2023

The Honorable Kiyo Matsumoto
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, NY 11201-1818

Dear Judge Matsumoto:

Re: Clerkship Application of Katherine Culver,
Yale Law School Class of 2022

I write to recommend Katherine Culver for a clerkship in your chambers.

Ms. Culver is a graduate of Yale Law School now in the final stage of her Ph.D. work in Anthropology at the University of Pennsylvania. She has been doing some truly fascinating work both in Cambodia and in Philadelphia. Fluent in the Khmer language, she has interviewed Cambodian judges, lawyers and government officials, engaging in the extraordinarily difficult project of teasing out their understandings of the concept of the rule of law. It goes without saying that it takes remarkable interpersonal skills to manage successful interviews on such a politically charged topic. It also requires great ethnographic savvy to make sense of the answers her informants give. Not least, her project requires a capacity to think about difficult legal problems in challenging comparative perspective. My conversations with her about her work have been thoroughly riveting. Nor has she confined her interest to the problems of remote Cambodia. She has done similar studies, with similarly interesting results, on Philadelphia jurors.

There is no doubt that she is not a typical candidate for a clerkship. This is not a green recent law school graduate, but a woman with broad and highly unusual experience of the law. I hope you will not be deterred by that. Ms. Culver has a first-rate mind, a capacity to immerse herself in tough legal questions, and a powerful desire to understand how legal systems function and what makes legal actors tick. Not only would she make an excellent clerk, she would also make, as I can attest, a fascinating partner in conversation. She is smart, she is eager to learn, and boy does she bring a distinctive perspective and dramatic range of experience to the law. She is also a very pleasant presence, who would make herself welcome in any workplace. I give her my warmest recommendation.

Sincerely yours,

James Q. Whitman

JQW/mb

James Whitman - james.whitman@yale.edu - 203-432-8392

WRITING SAMPLE

Katherine M. Culver
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(317) 513-6917

As a law student intern at the Immigration Legal Services Clinic of the Jerome N. Frank Legal Services Organization, I prepared a brief in support of a client's asylum application. The brief was prepared in partnership with another law student intern under the supervision of our clinic supervisor, Professor Jean Koh Peters. The attached writing sample contains Parts IV and V (pages 44-50) of the brief. To preserve client confidentiality, all individual names and locations have been redacted. I have received permission from my employer to use this memorandum as a writing sample.

This excerpt is drawn from a portion of the brief that I was responsible for drafting. The excerpt comes from the final version of the brief. Prior to finalization, this excerpt went through two drafts which were reviewed by clinic members and Professor Peters. The revisions made based on their suggestions involved some re-ordering of portions of the text as well as additions and deletions of content from our exhibits. These reviews did not include line edits, and there was very little revision of text at the sentence-level. The headline-level legal arguments reflected in the table of contents were developed in consultation with my partner prior to writing the brief, but the elaboration of these arguments in written form represents work that is largely mine.

IV. J----- HAS A WELL-FOUNDED FEAR OF FUTURE PERSECUTION ON ACCOUNT OF HIS MEMBERSHIP IN A PARTICULAR SOCIAL GROUP: "GAY MEN IN JAMAICA."

J----- fears he will be further persecuted, or even killed, if he is forced to return to Jamaica. J-----'s fears are well-founded, particularly since his persecutors continue to ask about him and threaten his life. J----- has been targeted on account of his membership in the particular social group "gay men in Jamaica." J-----'s sexual orientation is an immutable characteristic, a fundamental part of his identity he should not be required to change or hide. J----- spent his entire life attempting to hide his sexuality, but he realized all of his strategizing, all of his care, and all of his public denials had failed him when he was physically attacked and shot at in April 2013. J----- endured past persecution, and the presumption of a well-founded fear of future persecution cannot be rebutted.

A. Gay men in Jamaica constitute a particular social group in Jamaica, of which J----- [redacted] is a member.

Gay men in Jamaica constitute a particular social group in Jamaica, of which J----- [redacted] is a member. A particular social group exists for the purposes of asylum when three criteria are satisfied: 1) members of the group share an immutable characteristic; 2) the group is socially visible; and 3) the group has well-defined boundaries. RAIO Combined Training Course – Guidance for Adjudicating Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) Refugee and Asylum Claims [hereinafter, *RAIO – LGBTI Training Manual*] at 14; *Ucelo-Gomez*, 509 F.3d 70, 72-73. The BIA has recognized gay men in Jamaica constitute a particular social group. *Matter of [redacted]*, 2013 Immig. Rptr. LEXIS 652, at *6 ("[W]e consider that homosexual (or bi-sexual) persons living in Jamaica constitute a particular social group within the meaning of the Act.") [Ex. 48 at 1039].

1. J----- [redacted]'s sexual orientation is an immutable characteristic, fundamental to his identity, that he cannot and should not be required to change.

Gay men in Jamaica share an immutable characteristic, their sexual orientation, that is fundamental to their identity and that they cannot and should not be required to change. J----- identifies as a gay man. [redacted] Aff. 16 [Ex. 1 at 001]. This aspect of J-----'s identity is "immutable" under BIA and federal jurisprudence. The RAIO Directorate has recognized that "[s]exual orientation…can be classified as either innate or fundamental" and that it is a "characteristic[] that an individual…should not be required to change." *RAIO – LGBT Training Manual*, 16, citing *Matter of Tobosa-Alfonso*, 20 I. & N. Dec. 819 (1990). Moreover, homosexuals have been recognized as constituting a particular social group in cases involving applicants from Jamaica specifically. In 2011, the BIA held in a non-precedential decision that

"homosexual (or bi-sexual) persons living in Jamaica constitute a particular social group." *Matter of [reacted]*, 2013 Immig. Rptr. LEXIS 652, at *6 (Dec. 28, 2011) [Ex. 49 at 1039].

J----- is not out as gay to family, friends, coworkers, and classmates in Jamaica because of the additional ostracism and violence he might otherwise suffer, and yet he did pursue sexual relationships with men. Pursuing these relationships came at a significant personal risk to J-----. J----- was well aware that other boys and men caught in intimate situations with other men could be subject to violent mob attacks. J-----'s encounters with other men had to be arranged through anonymous telephone and internet chat services, and J----- could not pursue long-term relationships for fear of spending too much time with one person and eventually being suspected as gay by neighbors or caught being affectionate in public. Yet in spite of the demonization of gay people J----- heard throughout his childhood and the risks of violence and ostracism, J----- expressed his sexual orientation in this limited way precisely because it was fundamental to his identity. *See supra* II.A.

Even if J----- were able to continue hiding evidence of his sexual orientation in Jamaica, he should not be required to do so. Sexual orientation is something an individual should not be required to change. *RAIO – LGBTI Training Manual*, 16. Since coming to the U.S., J----- has been able to pursue intimate relationships with other men more openly, without the limitation to one-night anonymous encounters. If J----- were to return to Jamaica, he would continue to form relationships with men as part of his fundamental identity, which would render him a more visible target.

2. Gay men in Jamaica are a socially visible group, and J----- [redacted] is easily identified as part of this group.

Gay men are socially visible and "perceived as a group by society" in Jamaica, and members such as J----- are easily identified. *See In re A-M-E & J-G-U*, 24 I. & N. Dec. 69 (BIA 2007) (citations omitted) (defining socially visible group). Jamaica's buggery laws criminalizing consensual gay sex and acts of "gross indecency" between men target gay men. *See supra* I.A and II.B.4. The social visibility of gay men is especially evident in the Jamaican press's practice of publishing the names of those charged or arrested under the buggery laws. *See supra* II.B.4.

Prosecution under these laws constitutes persecution of the group. The BIA noted that it "was persuaded by the findings of the Ninth Circuit" that prosecution under the Jamaican Offenses Against the Person Act will always constitute persecution. *Matter of [redacted]*, 2013 Immig. Rptr. LEXIS 652, at *10, citing *Bromfield v. Mukasey*, 543 F.3d 1071, 1077 (9th Cir. 2008) [Ex. 48 at 1040]. The Jamaican government's prosecution of gay men for consensual, same-sex sexual activity constitutes persecution. According to the RAIO – LGBTI Training Manual, "if a law exists in another country that prohibits intimate sexual activity between consenting adults, enforcement of the law itself may constitute persecution and not simply prosecution."[8] The UNHCR notes that laws may amount to persecution if the laws violate accepted human rights standards, either by violating the law of the country of asylum or international instruments on human rights.[9] Here, Jamaica's buggery laws constitute persecution

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[8] *RAIO – LGBTI Training Manual*, 19. Furthermore, prosecution can rise to the level of persecution under asylum law if the prosecution is disproportionately severe or based on pretextual persecution on one of the five protected grounds. *Abedini v. U.S. I.N.S.*, 971 F.2d 188, 191 (9th Cir. 1992); *Fisher v. I.N.S.,* 79 F.3d 955, 962 (9th Cir. 1996).
[9] The Office of the United Nations High Commissioner, The Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol.

because they both violate U.S. law, which prohibits the criminalization of consensual, same-sex sexual activity[10] and international human rights standards.[11]

The government's treatment of homosexuals suggests that private violence, already pervasive in Jamaica, is particularly threatening for gay men. The U.S. State Department noted that the prevalence of private violence and that violence targeted at homosexuals "created a climate of fear that prompted many gay persons to emigrate, while the gross indecency laws meant those who remained were vulnerable to extortion from neighbors who threatened to report them to the police as part of blackmailing schemes." *State Dep't*, 1 and 21 [Ex. 19 at 102 and 122].

Gay men are also singled out in Jamaica's popular music and dancehall culture, in which popular artists encourage listeners to target "battyboys" and kill them. *See supra* II.A. This social visibility is reflected in the threats and insults directed at J----- when he suffered attacks on the street: for example, on one occasion, after being addressed as a "battyboy," or gay man, he was told that he was "fi' dead," or "for dead" because he is immoral and bringing destruction upon the country. [redacted] Aff. 163 [Ex. 1 at 009]. Indeed, the visibility of gay men in Jamaican

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Relating to the Status of Refugees, (Geneva, 1992), http://www.unhcr.org/3d58el3b4.html, ¶¶ 59, 60.

[10] In the United States, the Supreme Court in *Lawrence v. Texas* held that private, consensual sex-same activity cannot be prohibited by law. 539 U.S. 558, 578 (2003).

[11] The criminalization of private, consensual same-sex activity is a grave violation of human rights. It contravenes rights protected in the Universal Declaration of Human Rights and other treaties, including the rights to privacy, freedom from discrimination, and freedom of association. *Asylum Research Consultancy, Country Conditions Research* at 55 [Ex. 23 at 290] ("Despite the obligation that Jamaica has as a state party to the treaty to protect individuals from acts committed by private persons in violation of the [International Covenant on Civil and Political Rights], the rights to life and to freedom from cruel, inhuman, and degrading treatment of LGBT individuals in Jamaica are frequently violated.").

society based on their perceived sexual interest in other men is conveyed quite graphically through the common epithet "battyman." *See supra* I.A ("battyman" means "butt man").

The violence directed at and threatened against gay men is further evidence of the group's social visibility.[12] Jamaicans who identify as gay have been distinguished and persecuted in a manner similar to the attacks and threats experienced by J----- – they have been shot at, pelted with stones, threatened at gunpoint, physically beaten, and verbally abused. *See supra* II.B.5; II.B.6. The U.S. State Department has affirmed the persecution suffered by gay men in Jamaica noting reported human rights abuses include "assault with deadly weapons…arbitrary detention, mob attacks, stabbings, harassment of gay and lesbian patients by hospital and prison staff, and targeted shootings of such persons" and that "[p]olice often did not investigate such incidents." *State Dep't*, 21 [Ex. 19 at 122].

Although gay men are frequent targets of private violence, gay men receive little protection from the state, as police often fail to intervene to prevent violence against them when called for assistance. *See supra* II.B.4. In fact, police sometimes even incite such violence. Police also hold an immense amount of power in determining whether a gay person suffers further attack, as the Jamaican press publishes the names of individuals the police charge or arrest under Jamaica's buggery laws. The police are often allowed to act with impunity, so they are free to – and do – assault gays without fear of reprimand or reprisal. Gay men like J----- comprise a socially visible group easily identified and targeted by private and state actors alike.

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[12] *See In Re A-M-E- & J-G-U-*, 24 I. & N. Dec. 69 (BIA 2007) (noting that harm directed at a group is "a relevant factor in considering the group's visibility in society").

3. The social group "gay men in Jamaica" has particular and well-defined boundaries, and as a gay man, J----- [redacted] falls within those boundaries.

The social group "gay men in Jamaica" provides a clear standard for distinguishing members of the group and thus has particular and well-defined boundaries. The BIA has elaborated the particularity standard as requiring that "the attributes of a particular social group must be recognizable and discrete." *In Re A-M-E- & J-G-U-*, 241. & N. Dec. 69 (BIA 2007) (citations omitted). Members of the group may be identified by their own self-identification, by being caught in intimate circumstances with other men, or by displaying a sexual interest in men in some other way. In Jamaica, homosexuality is also imputed to Jamaican men for behavior characterized as gender-nonconforming, including a lack of demonstrated sexual interest in women or even attempting to rent an apartment by themselves or with another man. *See supra* II.D. While these behaviors may not in fact predict homosexuality, many Jamaicans effectively equate them with homosexuality.

Indeed, J----- was easily distinguished as falling within the boundaries of this group because of being found with a DVD of gay pornography, and J-----'s subsequent lack of visible interest in having female partners has likely confirmed this identification. Since the discovery of the DVD, J----- has been repeatedly called gay slurs, indicating that his private persecutors identified him as a gay man and that his sexual orientation was the reason for his attacks.

B. J----- [redacted] suffered past persecution based on his membership in the particular social group "gay men in Jamaica," which gives rise to a rebuttable presumption of well-founded fear of future persecution.

J----- suffered past persecution based on his membership in the particular social group "gay men in Jamaica," which gives rise to a rebuttable presumption of well-founded fear of

future persecution. An applicant who has established past persecution is presumed to have also demonstrated a well-founded fear of future similar persecution. J----- can be presumed to have a well-founded fear of future persecution because he has suffered past private persecution, from which the government would not protect him. In J-----'s case, the presumption of well-founded fear cannot be rebutted because country conditions have not changed since the past persecution, and J----- could not avoid future persecution through internal relocation in Jamaica.

1. J----- [redacted] suffered past persecution based on his membership in the particular social group "gay men in Jamaica."

J----- [redacted] suffered past private persecution based on his membership in the particular social group "gay men in Jamaica" and knew that the government would not protect him.

i. J----- was persecuted by private actors for being gay.

J-----'s sexual orientation was at the nexus of his persecution. After gunmen discovered a DVD of gay pornography at his home, J-----'s life changed vividly. From that moment, J----- was repeatedly attacked for being gay. He was forcibly evicted, physically beaten, shot at, threatened, spat on, and verbally abused – called a "battyman" and told he was an "abomination to the Lord" and that he must die – because he is gay. *See supra* II.B.2. J----- was targeted because of his sexual orientation and suffered persecution as a result. The State Department's and Human Rights Watch's reports on the pervasive homophobic violence targeted at gays in Jamaica repeatedly describe attacks like the ones J----- experienced. J----- was singled out for attack because he is gay. J-----'s attackers repeatedly called him "battyman," "faggot," and "fish" while they were attacking him. In April 2013, he was shot at after his attackers repeatedly punched him in the jaw while shouting gay slurs and telling him he must die. *See supra* ILE. The Board of Immigration Appeals found that a gay Jamaican who had been shot because of his homosexuality

had provided evidence of past persecution. 2008 BIA Slip Opinion at 3 [hereinafter *BIA Slip Op.*] [Ex. 49 at 1043]. The Board of Immigration Appeals has further noted that the 2011 State Department's report on Jamaica "makes clear that homosexuals in Jamaica are victims of targeted violence on account of their sexual orientation" and thus are the victims of persecution. *Matter of [redacted]*, 2013 Immig. Rptr. LEXIS 652, at *9 (Dec. 28, 2011) [Ex. 48 at 1039-40]. Therefore, J-----'s experiences match what the BIA has found to be evidence of persecution.

ii. J----- was unable to turn to the police for protection against homophobic attacks and will be unable to do so in the future.

J----- has been – and will continue to be – unable to turn to the police for help. Jamaican police not only refuse to investigate homophobic attacks, they often participate as attackers, inciting violence against gays and leaving them vulnerable to extortion. *See supra* II.B.4. Gay Jamaicans, including J-----, report being afraid to call on the police for help for fear that going to the police would make their situations more dangerous. While the majority of attacks are perpetrated by private citizens, Jamaican police are also perpetrators of violence against gay persons. J----- feared reporting events to the police because it might draw police attention to him, which could be very dangerous as a suspected gay man. *Id.*

As the BIA noted in one case, "We find particularly significant the evidence…regarding the respondent's fear of seeking governmental protection from her father's abuse" where "such action would be not only unproductive but potentially dangerous." *In re S-A*, 22 I & N Dec. 1328, 1333 (BIA 2000). As Human Rights Watch and other organizations have documented, many gay men simply avoid seeking police protection given the possibility that police will incite violence against them. *See supra* II.B.4. The BIA supported this view of the relationship between

Jamaican police and private violence against gay Jamaicans, rejecting the argument that only "rogue" police officers targeted homosexuals and concluding that "[t]he [Jamaican] police are not generally inclined to help homosexuals." *BIA Slip Op.*, 2-3 [Ex. 49 at 1043-44].

The country's leaders have refused to acknowledge the nation's homophobic violence: the Jamaican delegation to the U.N. has officially denied any evidence of mob-related killings of gays. *See supra* II.B.4. At the same time, it criminalizes homosexual behavior, leaving gay people vulnerable to extortion from their neighbors. Jamaica's buggery laws further enable abuses against gay persons. In Jamaica, it is illegal to have consensual gay sex. The Jamaican press publishes the names of those charged under this law, and Jamaican citizens and police alike use this law as a cover to continue harassing gay persons with impunity. Human Rights Watch documented several examples of police harassment of persons suspected of being gay. *Id.*

The U.S. has called on Jamaica to repeal these laws, but those calls have gone largely unheeded. In the UN's Report of the Working Group on the Universal Periodic Review of Jamaica for 2011, the U.S. "remained concern about continuing discrimination, violence, and exploitation…against the lesbian, gay, bisexual and transgender community." The U.S. recommended Jamaica repeal the sections of the Offences against the Person Act that criminalize same-sex male intercourse. Despite these calls, homophobia persists throughout Jamaica, and gay persons, including J-----, continue to be attacked for their sexual orientation while the state does little, if anything, to protect them. *See id.*; *supra* II.F.

2. **The presumption of well-founded fear cannot be rebutted because J----- remains justifiably fearful of ongoing violent homophobic attacks, cannot rely on the police or government for protection, and cannot avoid future persecution through internal relocation, as gay men are persecuted throughout Jamaica.**

The presumption of well-founded fear cannot be rebutted because J----- cannot rely on the Jamaican government to protect him from future attacks, country conditions have not changed, and J----- cannot avoid future persecution through internal relocation.

i. **The most recent country conditions reports indicate that a violent climate of intense homophobia persists in Jamaica, which confirms J-----'s subjective fears.**

J----- possesses a subjective fear of returning to Jamaica which is supported by current country conditions. First, the most recent country conditions reports indicate that a violent climate of intense homophobia persists in Jamaica. *See supra* II.F. Gay Jamaicans are vulnerable to private persecutors, and they cannot rely on the Jamaican state for protection. The BIA has held that given such "evidence of societal and governmental bias" in Jamaica, the U.S. government will be unable to rebut the presumption arising from the past persecution of a gay Jamaican man. *BIA Slip Op.*, 3 [Ex. 49 at 1044]. Until April 2013, J----- felt he was partly able to manage – through hiding, avoidance, and calm responses – the harassment and attacks he suffered, despite living in constant fear. However, the violence of the attack in April 2013 made clear that J----- could no longer manage the danger he faced as a gay man in Jamaica. On April 4, a mob of gunmen beat J----- and shot at him as he fled. J----- recognized that this was a clear escalation in the violence targeted at him and decided he had no choice but to flee Jamaica. J----- did not leave the house from the time of the attack until April 13, 2013, the day he left for

the airport for fear of being beaten, kidnapped, or killed. J----- fears he will be beaten or killed if he returns to Jamaica. He also fears that if he returns, gunmen will carry out their threats to burn his family's house down and will attack his family members for harboring him. [redacted] Aff. ¶ 113 [Ex. 1 at 017]. *See also* E. C----- Aff. ¶¶ 45, 48 [Ex. 6 at 039]; C. C----- Aff. ¶ 16 [Ex. 8 at 044].

Based on country conditions reports, J----- has good reason to fear even more serious harm than he has experienced already. Multiple sources report that gay men in Jamaica are regularly threatened, harassed, physically attacked, and forcibly evicted from their homes and communities. *See supra* II.B.5; II.B.6. J----- and his family were faced with forced eviction twice, first in May 2010 when his mother's house was taken by gang members, and again in April 2013 right before J----- fled the country. In addition, J----- was threatened, harassed with slurs, and spit on, beaten, and shot at. *Id.* While J----- was lucky to escape Jamaica before suffering even more serious harm, it is clear from human rights reports and local and international news reports that gay Jamaicans are at risk of severe injuries or death on account of their sexual orientation.

ii. J----- could not avoid harm through relocation, because homophobia and violence against gay men are present throughout Jamaica.

J----- could not avoid harm through relocation, because homophobia and violence against gay men are pervasive in Jamaica, as human rights reports indicate. *See supra* II.F. As the map in Ex. 18 demonstrates, gays are targeted and attacked in each and every parish in Jamaica.

Relocation for gay persons is nearly impossible. When gays are driven from their homes, they are threatened with death and told to leave immediately. They are forced to abandon their

possessions, and many end up homeless. *See supra* II.B.5. It is particularly difficult for gay men to safely resettle within Jamaica. *See supra* II.F. Even if gay persons do resettle, the country's buggery laws make it dangerous, if not impossible, to live as an openly gay man anywhere in Jamaica. *See supra* II.B.4.

As a single man trying to relocate, J----- may have difficulty obtaining housing as landlords may suspect that he is gay, especially if he attempted to live with male roommates in order to save money. *See supra* II.F. Moreover, it is possible that knowledge of J-----'s sexual orientation in A------ Town could travel to other parts of the country, since Jamaica is relatively small and information and rumors may spread quickly. *See, e.g., Hated to Death*, 52 [Ex. 21 at 205] (A 38-year-old testified, "[Being] gay in Jamaica, it's hard for us to live anywhere. [] Some might attempt to rent a little house. But within days, or it doesn't last for a month, they have to run away, leave everything that they have."). Indeed, news began to travel in J----'s case, as J----- was assaulted with a gun in a separate and less familiar section of A----- Town shortly after gunmen discovered the DVD.

C. J-----'s fear of future persecution based on his status as a gay man in Jamaica is well-founded.

J-----'s fear of future persecution in Jamaica because of his status as a gay man is well-founded because the threats and assaults J----- has experienced mirror the experience of other gay men in Jamaica. Human Rights Watch reported that gays are on the front lines of the "endemic violence by private actors and by Jamaican police" that permeates Jamaica. *Hated to Death*, 12 [Ex. 21 at 165]. The State Department reports that violence and targeted assault of gays is widespread. *State Dep't*, 20-21 [Ex. 19 at 121-22]. Violence against gay persons may include beatings, even in schools, fatal and near-fatal attacks using weapons, and mob attacks.

See supra II.B.6. The severe conditions faced by gay men in Jamaica have not changed since Human Rights Watch issued its report, and in some respects are getting worse. *See supra* II.F. Given these conditions, it is reasonable to believe that the death threats J----- received would be acted on if he returned, particularly if J----- lived a normal life rather than one designed to minimize as much as possible not only behaviors indicating his sexual orientation, but indeed his very presence, in everyday public spaces.

V. J-----[redacted] HAS A WELL-FOUNDED FEAR OF FUTURE PERSECUTION BASED ON HIS RELIGIOUS BELIEFS.

J----- was attacked because the homosexual behavior permitted by his religious beliefs departs from what is accepted by his persecutors. Claims of persecution on account of sexual orientation can often overlap with claims of persecution on account of religion. *RAIO – LGBTI Training Manual*, 14, citing *In re S-A*. Although J----- was brought up with Christian teachings advocating intolerance and homophobia, he rejected those teachings at a young age and became an atheist. As an atheist, J----- does not believe homosexuality or engaging in homosexual activity is impermissible. In contrast to J-----'s beliefs, the vast majority of Jamaicans are religious, and religious leaders in Jamaica vocally and powerfully advance an anti-gay agenda. J-----'s attackers indicated they were attacking J----- because his homosexuality deviated from what was acceptable under their religious beliefs. In *In re S-A*, the Board of Immigration Appeals held this type of persecution was persecution on account of religion.

Asylum may be granted when an individual suffers persecution because his religious beliefs differ from those of his persecutor's. In *In re S-A*, the Board of Immigration Appeals granted asylum to a young Moroccan woman who suffered persecution based on how her religious beliefs deviated from those of her persecutor. The woman was a liberal Muslim, and

her religious beliefs permitted women to behave in ways that deviated from the way her father, an orthodox Muslim, thought women ought to behave. Her father abused her because her behavior departed from what his religion considered proper. On one occasion, when the woman wore a skirt her father considered too short to be appropriate, her father heated up razor blades and burned the parts of the woman's thighs that were exposed by the skirt. On another occasion, when the woman stopped in the street to give a young man directions, her father came out and beat her, striking her repeatedly in the face. The Board held the woman was persecuted "on account of her religious beliefs, as they differed from those of her father concerning the proper role of women in Moroccan society." *In re S-A* at 1336.

J----- was similarly persecuted on account of religious beliefs that differed from those of his attackers. J-----'s attackers indicated their homophobic attacks were motivated by their religious beliefs, namely how J-----'s homosexual lifestyle differed from what their religion has taught them is appropriate. J-----'s attackers called him an "abomination to the Lord." *See supra* II.B.2. They told him, "God said people fi' dead for things like this!" and "People who go tha' way dead," meaning that people should die for things like that. *Id.* Though J----- did not personally know his attackers and does not know what their personal religious beliefs are, based on their remarks it appears their homophobia was grounded in their religion.

The basis for Jamaica's pervasive homophobia can be – and has been – attributed to the country's religious traditions. The IACHR reported, "Christian heritage is used as a justification for violence and discrimination against LGBTI persons in Jamaica." *See supra* II.A. Jamaica's delegation to the U.N. acknowledged that the country's religious standards "underlay a rejection of male homosexual behavior by a large majority of Jamaicans." *Id.* Jamaica's powerful Church leaders actively work to preserve the country's "homophobic climate and legislative framework."

Church leaders have been outspoken about their intolerance of gays, rallying to uphold the country's buggery laws and blaming the country's economic and social troubles on the prevalence of gays in Jamaica."[13] *Id*.

Jamaican citizens' homophobia has been found to be rooted in their religious beliefs. J-FLAG surveyed private citizens on their attitudes toward homosexuality and found that Jamaicans agree that "homosexuality is a sin," that 46% exhibited "repulsion" toward homosexuals, and that Jamaicans' negative attitudes toward homosexuality correlates with increased church participation. *See supra* II.A. J-FLAG also found that Jamaicans believe "same sex relationships contribute to the decaying social fabric in society." *Id.* Church leaders promote the idea that the many of the country's economic and social problems are rooted in the prevalence of homosexuality throughout the country. *Id.* This message leads private citizens to hate gays because they are the reason God is punishing and bringing hard times unto Jamaica.

J-----'s attackers held similar beliefs, telling J----- he was "bringing destruction" upon the community. In April, his attackers asked him why he had returned to the community and threatened to harm him and his family if he did not leave. J----- and his family are in danger of suffering further attacks if he is forced to return to Jamaica.

---

[13] Intolerance is not limited to the Christian leadership, though the Christianity is by far the dominant religion in Jamaica. At least one Rastafarian leader has come out publicly joining the Church's effort to fight repeal of the buggery laws. Adrian Frater, *Senior Rastafarian says No to Repealing Buggery Law*, Jamaica Gleaner (June 8, 2013), available at http://jamaica-gleaner.com/gleaner/20130608/lead/lead1.html. The President of the Islamic Council of Jamaica called open homosexual behavior an unclean, unnatural lifestyle, and suggested it should be punishable by death. "It is illegal and in the Sharia law the punishment is death. If you follow Christianity it is a crime in the sight of God. He destroyed a whole city because of this thing. It is an ungodly practice and I apologize to no one for this." Karyl Walker, *Muslim Leader Blasts Gay Lifestyle,* Jamaica Observer (Feb. 1, 2010), available at http://www.jamaicaobserver.com/news/muslim-leader-blasts-gay-lifestyle.

J-----'s claim of persecution on account of membership in the particular social group "gay men in Jamaica" overlaps with his claim of persecution on account of religion. *See RAIO – LBGT Training Manual*, 14. Jamaica's pervasive homophobia is rooted in its deeply conservative religious culture. Church leaders preach hatred and intolerance of gays, lessons J-----'s attackers took to heart. When they were attacking him for being a "battyman," they condemned him as an "abomination to the Lord" and a "pagan." They attacked him in God's name, yelling that God said to kill the gays and threatening to burn him and kill him. Their attacks were motivated by homophobia and fueled by religious fervor. As with *In re S-A*, J----- was persecuted on account of his religion and on account of how his religious beliefs permitted behavior that deviated from what his persecutors' religious beliefs would allow.

VI. CONCLUSION

[redacted]

Applicant Details

First Name	**Pablo**
Last Name	**Das**
Citizenship Status	**U. S. Citizen**
Email Address	**pabloaabirdas@gmail.com**
Address	**Address** Street **163 Attorney Street Apt 2D** City **New York City** State/Territory **New York** Zip **10002** Country **United States**
Contact Phone Number	**13017924158**

Applicant Education

BA/BS From	**Boston University**
Date of BA/BS	**May 2016**
JD/LLB From	**University of Southern California Law School** **http://www.nalplawschoolsonline.org/ndlsdir_search_results.asp?lscd=90513&yr=2009**
Date of JD/LLB	**May 10, 2022**
Class Rank	**15%**
Law Review/ Journal	**Yes**
Journal(s)	**Southern California Law Review**
Moot Court Experience	**No**

Bar Admission

Admission(s)	**New York**

Prior Judicial Experience

Judicial Internships/ Externships	**No**
Post-graduate Judicial Law Clerk	**No**

Specialized Work Experience

Recommenders

Garry, Hannah
hgarry@law.usc.edu
213-740-9154

Wood, Abby
awood@law.usc.edu
(213) 740-8012

Brown, Rebecca
rbrown@law.usc.edu
213-740-1892

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Pablo Aabir Das
163 Attorney Street, Apt. 2D
New York, NY 10002

May 14, 2023

The Honorable Kiyo A. Matsumoto
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Dear Judge Matsumoto,

I hope this letter finds you well. I am writing to apply for an October 2025 clerkship with your chambers.

I am currently a litigation associate at White & Case LLP in New York City. In 2022, I graduated from the University of Southern California Gould School of Law with a 3.80 GPA. While at USC, I served as an Executive Senior Editor on the Southern California Law Review and as an Advanced Student-Attorney in the International Human Rights Clinic.

My interest in this clerkship stems from my desire to eventually work in the federal government where I hope to engage in policymaking and help legislators draft comprehensive, well-written laws. I have a particular interest in civil rights legislation, especially as it pertains to voting rights.

I have prepared for this clerkship by pursuing rigorous research and writing experiences since the start of law school. In the past two years, I have published four academic papers on topics including election law, the shadow docket, and international human rights. During law school, I externed with the S.E.C. and the U.S. Attorney's office, where I wrote memos on a range of substantive and procedural legal issues. More recently, at White & Case, I was part of two trial teams within my first six months at the firm.

In my application package, I have included my resume, transcript, and writing sample. I have also attached letters of recommendation from professors Rebecca Brown, Abby Wood, and Hannah Garry. I would be honored to have the opportunity to clerk with you, and I thank you in advance for your consideration.

If you would like to discuss my application, please feel free to reach me at pabloaabirdas@gmail.com or 301-792-4158.

Respectfully,

Pablo Aabir Das

PABLO AABIR DAS

pabloaabirdas@gmail.com | +1-301-792-4158 | New York, NY

EDUCATION

University of Southern California, Gould School of Law, Los Angeles, CA **Juris Doctor, May 2022**

GPA: 3.80, *honors*, merit scholarship

Activities: Executive Senior Editor, Southern California Law Review; Advanced Student-Attorney, International Human Rights Clinic

Publications: **(i)** "Deep in the Shadows?: Analyzing the Emergency Docket" (Pablo Das, Lee Epstein, Mitu Gulati, Apr. 2023 *Virginia Law Review*); **(ii)** "Morocco v. Radi" (Hannah Garry, et al., July 2022, *Clooney Foundation for Justice*); **(iii)** "The Emergency Docket" (Lee Epstein & Pablo Das, June 2022, report for the *N.Y. Times*); **(iv)** "Voting and Campaign Finance: Inconsistencies in Law and Policy" (Pablo Das, Dec. 2021, *Southern California Law Review*)

Boston University, Pardee School of Global Studies, Boston, MA **Bachelor of Arts, May 2016**

Major: International Relations Honors Program, *magna cum laude*

Awards: Senior Honors Thesis Award; Departmental Honors; University Research Award; White House Champion of Change

RELEVANT EXPERIENCE

White & Case, LLP, New York, NY

Summer Associate; Litigation Law Clerk *May 2021 — August 2021; September 2022 — Present*

- Prepared legal memos on issues such as choice-of-law, tax law, bankruptcy law, securities law, civil rights law, and others.
- Assisted in witness preparation and trial preparation for a successful arbitration and for a cross-border contract dispute.
- Started and currently lead a pro bono initiative representing formerly incarcerated individuals seeking the restoration of voting rights.

U.S. Attorney's Office, Central District of California, Los Angeles, CA

Legal Extern, Criminal & National Security Division *September 2021 — November 2021*

- Prepared legal memos on topics including public corruption, environmental crime, corporate fraud, and cybersecurity crime.
- Conducted research to assist the Public Corruption team in its investigation and prosecution of L.A. County public officials.
- Drafted successful Motion in Limine on evidentiary issues relating to hearsay exceptions for a cryptocurrency trial.

U.S. Securities & Exchange Commission, New York, NY

Law Student Honors Program, Enforcement Division *May 2020 — August 2020*

- Conducted legal research for enforcement matters including pyramid schemes, insider trading, and pump and dump schemes.
- Drafted a legal action memo on a transnational cryptocurrency fraud case for NY Enforcement staff.

Reggora, Boston, MA

Head of Growth & Strategy; Strategy Advisor *May 2018 — May 2020*

- Joined as a founding member of the fintech's executive team, and oversaw growth to 150 staff and >$50 million in fundraising.
- Managed the sales, finance, operations, and marketing teams to expand product to over 45 states and exceed $10 million in revenue.
- Served as a Strategy Advisor to the CEO from June 2020 – June 2022 consulting on regulatory reforms and fundraising initiatives.

Observer Research Foundation, New Delhi, India

Visiting Research Associate, Global Governance Initiative *September 2017 — May 2018*

- Published articles and reports on South Asian geopolitics with a focus on security, trade, diplomacy, and economic connectivity.

ADDITIONAL INFORMATION

Languages: English (native); Hindi (advanced); Spanish (basic).

Internship & Volunteer: U.N. Human Rights Council (Geneva); DNC Voter Protection Initiative (Washington, D.C.); RFK Human Rights Center (Washington, D.C.); National Campaign on Dalit Human Rights (New Delhi); X-Cel Volunteer Teaching (Boston, MA).

Interests: Houseplants; biodynamic wines; chess; tennis; Premier League soccer.

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Registrar

---------- Current Program of Study ----------

---------- USC Degrees Awarded ----------

05/13/2022 Juris Doctor — Law

---------- USC Cumulative Totals ----------

Law — Units Attempted: 92.0 Earned: 92.0 Available: 92.0 GPA Units: 53.0 Grade Points: 201.80 GPA: 3.80

Fall Semester 2019 (08-26-2019 to 12-18-2019)

LAW-515	3.4	3.0	Legal Research, Writing, and Advocacy I
LAW-509	3.2	4.0	Torts I
LAW-503	3.8	4.0	Contracts
LAW-502	3.4	4.0	Procedure I

Term Units Attempted	Term Units Earned	Term GPA Units	Term Grade Points	Term GPA
15.0	15.0	15.0	51.80	3.45

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Spring Semester 2020 (01-13-2020 to 05-15-2020)

Grades of Credit/No Credit were required in Spring 2020 in response to COVID-19 global pandemic.

LAW-531	CR	3.0	Ethical Issues for Public Interest, Government and Criminal Lawyers
LAW-516	CR	2.0	Legal Research, Writing, and Advocacy II
LAW-508	CR	3.0	Constitutional Law: Structure
LAW-507	CR	4.0	Property
LAW-504	CR	3.0	Criminal Law

Term Units Attempted	Term Units Earned	Term GPA Units	Term Grade Points	Term GPA
15.0	15.0	0	0	0.00

Fall Semester 2020 (08-17-2020 to 12-16-2020)

LAW-622	4.1	2.0	Money in Politics
LAW-621	4.1	3.0	Gender Discrimination
LAW-603	3.6	4.0	Business Organizations
LAW-767A	CR	1.0	Law Review Staff
LAW-849	CR	5.0	International Human Rights Clinic I

Term Units Attempted	Term Units Earned	Term GPA Units	Term Grade Points	Term GPA
15.0	15.0	9.0	34.90	3.87

Spring Semester 2021 (01-11-2021 to 05-14-2021)

LAW-890	CR	3.0	Directed Research
LAW-865	3.8	3.0	Legislative Policy Practicum
LAW-608	3.7	4.0	Evidence
LAW-768	CR	1.0	Law Review Writing
LAW-767B	CR	1.0	Law Review Staff
LAW-850	3.9	5.0	International Human Rights Clinic II

Term Units Attempted	Term Units Earned	Term GPA Units	Term Grade Points	Term GPA
17.0	17.0	12.0	45.70	3.80

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Fall Semester 2021 (08-23-2021 to 12-15-2021)

LAW-781	CR	4.0	Externship I
LAW-769A	CR	3.0	Law Review Editing
LAW-532	4.1	3.0	Constitutional Law: Rights
LAW-893	4.1	5.0	Advanced Clinical Training

Term Units Attempted	Term Units Earned	Term GPA Units	Term Grade Points	Term GPA
15.0	15.0	8.0	32.80	4.10

Spring Semester 2022 (01-10-2022 to 05-13-2022)

LAW-893	4.2	3.0	Advanced Clinical Training
LAW-867	4.1	3.0	Corporate Fraud
LAW-769B	CR	3.0	Law Review Editing
LAW-683	3.9	3.0	Fact Investigation and Discovery
LAW-602	CR	3.0	Criminal Procedure

Term Units Attempted	Term Units Earned	Term GPA Units	Term Grade Points	Term GPA
15.0	15.0	9.0	36.60	4.06

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May 14, 2023

The Honorable Kiyo Matsumoto
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, NY 11201-1818

Dear Judge Matsumoto:

I write to give my enthusiastic support for Mr. Pablo Abir Das's application to clerk in your Chambers. I have known Pablo since April 2020 when I interviewed him for enrollment in the International Human Rights Clinic at the University of Southern California ("USC") Gould School of Law, which I direct. He was one of eight students invited to participate in the Clinic in the 2020-2021 academic year after a competitive interview and application process. During his time in the Clinic as a student attorney, he worked on average 20 hours per week.

In the Clinic, I supervised Pablo on two projects. Both involved monitoring the trials of journalists and human rights defenders in Morocco and Kyrgyzstan with the Clooney Foundation's TrialWatch Initiative. This work involves training of local monitors to attend the trial's hearings for purposes of taking detailed notes and collecting the case file; in-depth interviewing of defense counsel on the case as well as legal experts and human rights experts on the legal system in-country; and researching international human rights standards and jurisprudence with respect to a fair trial. All of this work is done for purposes of drafting and publishing a report analyzing and rating the fairness of the trial under international standards in order to deter Kyrgyzstan, Morocco and other countries from weaponizing their judicial system against political opponents and dissidents critical of the government. During his time in the Clinic, in addition to the above mentioned activities, Pablo played the leading role in researching and assisting me (as a TrialWatch expert) with drafting a trial monitoring report of a trial against journalist Omar Radi, ultimately concluding that the trial was riddled with violations of fair trial rights that Morocco is bound to uphold under international human rights law including: violations of the right to presumption of innocence; the right not to be arbitrarily detained or subjected to inhumane treatment; the right to call and examine witnesses; and the right to an impartial tribunal.

Having worked closely with Pablo, and having clerked myself on the 11th Circuit U.S. Court of Appeals, I can say that he is exactly the sort of individual that makes for an ideal law clerk. First, Pablo is very intelligent and is a quick learner. This became evident not only from the high quality of his work product, but also from my discussions with him in our seminar class and supervision meetings. He was well-prepared, and his questions and comments were always quite insightful and relevant as we discuss the assigned reading and how to apply the law to the facts of a particular case.

Second, Pablo has strong research and writing skills. He quickly grasps complex issues, researches them thoroughly (displaying ease in working with treaty, international jurisprudence, and foreign law in addition to U.S. law sources for purposes of my Clinic), and turned around a solid draft efficiently and effectively. His organizational skills were exceptional. He conducted research with determination and turned around very solid first drafts effectively. With some clear feedback and guidance on his first drafts, which he incorporated well, his writing became even more organized, consistent and clear over time.

Third, Pablo displayed a hard work ethic and always completed his Clinic work in a professional manner, multi-tasking between his Clinic projects with ease. In spite of the lengthy and complex research and drafting assignments for the TrialWatch work, he produced several drafts along the way for my review, appropriately seeking further guidance on a regular basis, and responding well to constructive feedback. Pablo always had a deep understanding of the facts of the cases and took time each week to ensure he was up to date on them, including monitoring news reports and staying in touch with counsel.

As a result of all of the above, I was delighted to invite Pablo back to the Clinic during his third year of law school to enroll in my Advanced Clinical course where he continued on with the TrialWatch work, but also helped to supervise two new second year Clinic student attorneys. In that role, he found the perfect balance of leading while also empowering the new students to gradually take over the processes for which he had been primarily responsible. With respect to his grades, Pablo easily stood out in the Clinic, and I awarded him the second highest grade in the class for his first year, a 3.9 (A), and a 4.1 (A+) during his second year as an Advanced Clinical student.

Finally, I would point out that Pablo has had work experience observing Judges through his Clinic work. As such, he has a good understanding of the judicial role as well as the intense demands and complex issues that Judges face. He is also well-attuned to understanding and working within different jurisdictions, adjusting to differing procedural and substantive rules well.

On a more personal level, Pablo is a confident, grounded young man with a nice sense of humor. In his work, I found that he was utterly dependable and responsible. He took initiative and was not afraid of challenges. He is the sort of person that anticipates the needs of his supervisors before they do. Not only did he work well independently, but he was also a team player. In all of his assignments for the Clinic, he worked closely with one to three other students and exhibited excellent communication and collaboration skills. The teams review each other's research and drafting, maintain the case files, and lead seminar classes together on their casework. In the team setting, Pablo played a natural leadership role, leading by example. If there was one area to critique Pablo on, it would be that he perhaps tends to take on too much and, as a result, sometimes failed in the Clinic to pay sufficient attention to detail. He improved on that over time. In sum, Pablo is a real pleasure to interact with both

Hannah Garry - hgarry@law.usc.edu - 213-740-9154

professionally and socially.

For these reasons, I highly recommend Pablo as a clerk in your Chambers. If you need any further information about him, please do not hesitate to write or call.

Best Regards,

Hannah Garry

Hannah Garry - hgarry@law.usc.edu - 213-740-9154

May 14, 2023

The Honorable Kiyo Matsumoto
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, NY 11201-1818

Dear Judge Matsumoto:

I strongly recommend that you hire Pablo Das to clerk in your chambers. I met Pablo in my Money in Politics seminar during the fall semester of 2020, when we were all teaching remotely. Pablo wrote a phenomenally strong paper for the seminar, which empirically explored the relationship between voting rights restrictions and campaign finance deregulation at the state level. Pablo is brilliant, creative, and diligent. He is also professional, warm, and kind. I tried to get him to apply for Ph.D. programs, but he was ready to get out in the world and work on issues that are important to him. At last check, he wanted to do this as a government lawyer, especially focused on voting rights, education, and the environment. I am certain that he will be successful as a law clerk, and I know that we will benefit from having him advocate for the public. I am thrilled to write this letter for him.

In my Money in Politics seminar, I encourage the students to write their seminar paper about a topic of interest to them. Pablo's topic was among the most politically astute topics a student has ever chosen. He noticed that political conservatives tend to be for restricted voting rights and against campaign finance regulation. But this is perplexing, since the main justification for regulating voting is fraud prevention, and the justification for regulating campaign finance is corruption prevention. He gathered data on voting rights and campaign finance regulation in the fifty states and analyzed the relationship between their co-occurrence in states. His main finding is that the correlation is not strong at all, surprisingly. He wrote case studies analyzing the areas in which the correlations were strongest.

As I helped Pablo think through the piece, I was exceptionally impressed with his attention to detail and forward thinking. He carefully considered his measurement choices and pushed hard on the measures to test the robustness of the relationships he found. He paired this careful empirical work with thorough legal and scholarly research. He quickly and adeptly familiarized himself with the relevant literature – most of it very recent – and also masterfully explained to the reader the rationales behind the tiers of constitutional scrutiny and the relevant caselaw containing that jurisprudence.

It will not surprise you to learn that the note was published in the Southern California Law Review. Most notes are not published, of course, but this one is so good that it was a no-brainer. In fact, I am adding it to my syllabus this year – it will be an optional reading, but my students who are interested in both voting rights and campaign finance will learn a lot from it. Pablo has since gone on to publish more work jointly with Professor Lee Epstein, who is one of the top political scientists working on judicial behavior and public policy. That she has worked with him twice – once for an op-ed, and once for a law review piece – speaks to how extremely good he is at this work. (She hasn't even worked with me yet! Pablo is amazing!)

In watching him work on this piece, I came to strongly believe that Pablo would absolutely dominate a social science Ph.D. program, helping push the frontier of our understanding around law and policy. Alas, while his area of interest is still voting rights, he wants to approach it as a practitioner. This is lucky for the legal community and unlucky for us social scientists.

Finally, on a personal note, Pablo is simply a terrific person. He reaches out when he wants to know people, follows through, and is genuinely interested in the lives of his friends and colleagues. He is also curious in a delightful way: my co-author, Jake Grumbach spoke with my class the semester that Pablo took Money in Politics. Pablo emailed me when Jake's book came out to tell me that he read and enjoyed it. I wish every student were as curious and every alumnus as communicative as Pablo. Whoever hires him as a clerk will have the great fortune of hiring someone who is a delight to work with and to mentor.

If I can further help you in your deliberations, please be in touch via email (awood@law.usc.edu). Thank you for your consideration of this wonderful attorney.

Best regards,

Abby K. Wood

Professor of Law, Political Science, and Public Policy
USC Gould School of Law

Abby Wood - awood@law.usc.edu - (213) 740-8012

May 14, 2023

The Honorable Kiyo Matsumoto
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, NY 11201-1818

Dear Judge Matsumoto:

Pablo Das is one of the strongest clerkship candidates whom I have recommended in my career, over thirty years. Every few years a student comes along who impresses me deeply with a combination of intellectual horsepower, personal drive and public-spirited values. This year, that student is Pablo Das.

Pablo was in two of my classes, first-year structural constitutional law and an upper-class course in constitutional rights. He absolutely excelled in both. The first-year course was the year that the world turned upside-down with Covid, and my class was entirely on zoom. This was an incredibly difficult time for students, who found themselves isolated and even more insecure than first-year students normally feel. Pablo was a clear standout in maturity, dedication, and brilliance in his performance in class. And in the rights course the following fall, he earned an A+.

A brief story will illustrate both the depth of my belief in Pablo and why he deserves it. In the fall of Pablo's 2L year, a distinguished scholar who was joining our faculty asked me if I knew a talented student who could help her with an important empirical project regarding the emergency docket of the Supreme Court, and I immediately thought of Pablo, who enthusiastically allowed me to suggest his name. The problem was, my colleague had not yet officially joined our faculty and so there was no funding to pay a research assistant. I went back to Pablo to say, too bad it didn't work out. His response was that he "needed more to do" and was so excited to work on the project that he would be happy to do it without compensation. Being on the law review and garnering all A+ grades that fall semester was apparently not enough to keep him busy. So he went to work, and my friend was thrilled with his help. Indeed she named him as a co-author on the project (not a normal procedure for a research assistant), and their piece was cited in the New York Times.

The reason Pablo is so impressive is, in part, his boundless intellectual energy. He brought that energy to class, and but for a slow start his first semester and the law school's decision to make the Covid semester pass-fail, he would likely be at the very top of the class rather than a hair's breadth below the top. He brought that energy to his many endeavors in law school, all devoted to public service: serving as an extern at the U.S. Attorney's Office, dedicating himself to the International Human Rights clinic, serving on the executive board of the Law Review, volunteering with a voting protection initiative, serving as Vice President of our student chapter of the American Constitution Society—a platform he used to highlight the issue of voting rights. Pablo will eventually work for the government, and a clerkship will help him enhance his fluency with all aspects of public law.

You will find Pablo to be an extremely positive addition to any team on which he works. He is indefatigable and upbeat, concerned and empathetic, generous and responsible. These attributes mean that he is not only very smart but also able to use his talents to constructive ends. He is a joy to have around. He has my highest recommendation.

Very truly yours,

Rebecca L. Brown
The Rader Family Trustee Chair in Law

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Writing Sample

This writing sample is an excerpt of a final paper I wrote for my Money in Politics seminar with Professor Abby Wood. I later converted the paper into a Note that was published by the *Southern California Law Review*. The paper was the winner of the Beverly Hills Bar Association Rule of Law Competition.

Using both a legal and a data-based analysis, the paper argues that state legislatures and courts inconsistently regulate campaign financing and voting, which is unjustifiable and also harms democratic principles.

For brevity, I have only included the introduction and the argument section of the paper. The complete Note can be found on the *Southern California Law Review* website.

VOTING AND CAMPAIGN FINANCING: INCONSISTENCIES IN LAW AND POLICY

I. INTRODUCTION

The right to vote in elections and the right to spend[1] in elections are both historically revered rights that function as critical elements of American democracy.[2] These rights have earned their salience because they are two of the most common and accessible mechanisms by which Americans can participate in the democratic process. In different ways, each right enables citizens to express their views of their elected representatives and to support causes they identify with, ultimately ensuring that government remains responsive to the needs of the electorate. Due to their vital roles within the democratic process, condoning the restriction of one of these rights while overlooking the regulation of the other undermines democratic principles.

Despite their shared value to democratic participation, the Supreme Court analyzes the right to vote and the right to spend through distinct doctrinal lenses. The Court's differential analysis manifests in significant regulation of voting but a more laissez-faire approach to spending. As a result, voting and spending rarely reference each other in jurisprudence and are infrequently compared. This has led to limited scholarship contrasting the Supreme Court's legal analysis of each right and even less of an examination into how the two rights relate at a policy level. Such a comparison is instructive when evaluating the transparency and integrity of the American electoral process. Indeed, if two core democratic rights are treated differently by both courts and

1. For the purpose of this Note, I am borrowing Professor Robert Yablon's concept of the "right to spend," which encompasses both political contributions and political expenditures. As both Professor Yablon and this Note point out, the Supreme Court has assessed regulations pertaining to contributions and expenditures differently, and when it is necessary to distinguish the Court's legal framework around these two issues, this Note will do so. *See* Robert Yablon, *Voting, Spending, and the Right to Participate*, 111 NW. U. L. REV. 655, 658 n.9 (2017).

2. The first federal campaign finance law was passed in 1876, when the Naval Appropriations Bill became the first enacted law regulating how citizens could contribute to elected representatives. *See History of Campaign Finance Regulation*, BALLOTPEDIA, https://ballotpedia.org/History_of_campaign_finance_regulation [https://perma.cc/FAA3-VCCG]. Voting rights date back even further to the country's founding, but until the Fourteenth Amendment was adopted in 1868, such rights were primarily controlled by state legislatures.

legislatures, then the rationale behind such divergent treatment should be scrutinized. This Note explores how voting rights and spending rights interact at both the judicial and state policy levels. This Note's central argument is that voting and spending are closely related activities that are jointly paramount to the functioning of American democracy and, as a result, the inconsistent regulation of these two issues in jurisprudence and state-level policy is unjustified and detrimental to the democratic process.

This is a timely moment to explore the intersection of voting and spending, as both issues have come to the forefront of public discourse over the past several years. Since 2016, the media has prominently covered issues of voting integrity, and these concerns served as the primary flashpoint in the 2020 presidential election. Landmark court decisions like *Crawford v. Marion County Election Board*[3] and *Shelby County v. Holder*[4] contributed to the prevalence of voting rights issues, as both cases, in different ways, endorsed states' broad authority to impose voting restrictions. On the spending side, the last two presidential elections enjoyed historic contributions from major donors and political action committees ("PACs"),[5] while independent expenditures also reached an all-time high. This dramatic increase in political contributions and expenditures has underscored concerns around the sizable influence of money in politics. Moreover, in contrast to voting rights, spending rights are often protected by the Supreme Court. Notably, key decisions in *Citizens United v. FEC*[6] and *McCutcheon v. FEC*[7] limited states' ability to regulate campaign financing.

Policy developments around these rights are actively playing out in state legislatures across

3. Crawford v. Marion Cnty. Election Bd., 553 U.S. 181 (2008) (plurality opinion).
4. Shelby County v. Holder, 570 U.S. 529 (2013).
5. A political action committee is an independent expenditure committee that typically spends money in support of a political candidate.
6. Citizens United v. FEC, 558 U.S. 310 (2010).
7. McCutcheon v. FEC, 572 U.S. 185 (2014) (plurality opinion).

the country. Since the 2020 elections, in response to unverified allegations of mass voter fraud, dozens of states have introduced bills to restrict voting access.[8] These bills have impeded voter registration options, limited vote-by-mail accessibility, and strengthened voter ID requirements. There is no indication that there is similar state-level interest to regulate spending. In fact, some state legislatures have relaxed campaign finance restrictions.[9] The reluctance of policymakers to take action on regulating spending is especially striking given that dark money groups[10] spent hundreds of millions of dollars in undisclosed political expenditures during the 2020 elections.[11]

Such policy shifts partially stem from the Supreme Court's divergent treatment of voting and spending rights. Disputes over voting restrictions, on the one hand, are typically analyzed under the Fourteenth Amendment to determine if a given voting law violates the Equal Protection Clause.[12] Challenges to spending laws, on the other hand, are usually evaluated under the First Amendment to establish whether a spending regulation excessively or improperly regulates free speech.[13] As a result of this bifurcated analysis, the Supreme Court tends to defer to states' discretion regarding voting laws while being wary of regulating spending due to sacrosanct First Amendment concerns.[14]

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8. Ari Berman, *361 Voter Suppression Bills Have Already Been Introduced This Year*, MOTHER JONES (Apr. 1, 2021), https://www.motherjones.com/politics/2021/04/361-voter-suppression-bills-have-already-been-introduced-this-year [https://perma.cc/EW9W-PFFX]; *see also Voting Laws Roundup: February 2022*, BRENNAN CTR. FOR J. (Feb. 9, 2022), https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2022 [https://perma.cc/VN43-FLTU].

9. *See, e.g.*, Alex Sakariassen, *Pair of Bills Would Rewrite Montana's Campaign Finance Laws*, MISSOULA CURRENT (Feb. 20, 2021), https://missoulacurrent.com/government/2021/02/campaign-finance [https://perma.cc/JEV7-BZ3L].

10. Dark money groups are political nonprofit entities that have no legal obligation to disclose their donors. With minimal regulation or oversight, these groups often spend undisclosed amounts of money in support of political candidates.

11. *See* Anna Massoglia, *'Dark Money' Groups Pouring Millions into 2020 Political Ads with Even Less Disclosure*, OPENSECRETS (Sept. 11, 2020, 3:15 PM), https://www.opensecrets.org/news/2020/09/dark-money-pouring-920 [https://perma.cc/35J4-H6CT].

12. *See* Crawford v. Marion Cnty. Election Bd., 553 U.S. 181, 189–91 (2008) (plurality opinion).

13. *See* Citizens United v. FEC, 558 U.S. 310, 339–50 (2010).

14. While the Court's differential posture toward voting rights and spending rights has remained largely consistent since the late 1900s, this doctrinal divergence has been particularly prominent over the past decade. Since the 2010 elections, in the face of legal challenges, states have successfully adopted a variety of restrictions around voting rights, including additional voter ID laws, barriers to voter registration, limitations on absentee voting, and more. In fact, "[i]n 2016, [fourteen] states had new voting restrictions in place for the first time in a presidential election." *New Voting Restrictions in America*, BRENNAN CTR. FOR JUST. (Nov. 19, 2019), https://www.brennancenter.org/our-work/research-reports/new-voting-restrictions-america [https://perma.cc/T7UG-FJVL]. On the other side, the Court has weakened states' capacity to regulate campaign financing—especially the regulation of expenditures. *See* Pamela S. Karlan, *The Supreme Court, 2011 Term—Foreword: Democracy and Disdain*, 126 HARV. L. REV. 1, 32 (2012) ("A striking feature of the Roberts Court is that, when it comes to the act of voting, the Justices are decidedly less skeptical of government restrictions [than campaign finance regulations].").

As the integrity of American elections comes under close scrutiny over the next several years, clearly defining the scope of voting rights and spending rights will be increasingly important. The Supreme Court has already recognized the significance and interrelation of these two rights and grouped them together under a broader "right to participate," defined as the most basic right in democracy.[15] Nevertheless, the Court continues to afford each right a differing level of judicial protection.

This Note explores both the Court's doctrinal divergence, as well as state-level policies regulating either right, in three Parts. The first Part describes the Supreme Court's legal analysis of both voting rights and spending rights. It proceeds to provide an overview of each right's respective legal framework as well as the notable cases that define each right. The Part concludes by evaluating the public policy imperatives that drive the regulation of either right. Through this jurisprudential comparison, this Part suggests that while the Court applies different levels of scrutiny to voting and spending regulations, the underlying public policy rationales that drive the regulation of these rights are almost identical.

In the second Part, this Note transitions to the policy realm and explores whether the state laws that regulate voting and spending actually further public policy imperatives such as election integrity. The analysis relies on a score-based methodology that calculates how many key spending regulations or voting restrictions each state has adopted. This score is then used to rank how regulatory each state is toward voting and spending, respectively. Ultimately, these scores determine that the policy disparity between voting restrictions and spending regulations is not as stark as the Court's doctrinal divergence. Moreover, this Part argues that although the overall

15. McCutcheon v. FEC, 572 U.S. 185, 191 (2014) (plurality opinion) ("There is no right more basic in our democracy than the *right to participate* in electing our political leaders. Citizens can exercise that right in a variety of ways . . . [,] [including] vot[ing] . . . and contribut[ing] to a candidate's campaign." (emphasis added)).

policy disparity is not pronounced, on a granular level, there are certain voting or spending laws that can predict the absence—or presence—of other voting or spending laws.

In the third Part, this Note argues that both the states' and the Supreme Court's approaches to regulating voting versus spending are unjustified and damage the basic principle of equal participation that underpins the political system. This Part first responds to arguments in defense of the existing regulatory disparity and then proceeds to lay out how this divergence negatively affects democratic values and practices.

III. THE RISKS OF INCONSISTENT REGULATION

A. OVERVIEW

The tension between restrictive voting laws and lax spending regulations is indicative of both courts' and legislatures' broader attitude toward election integrity. Repeatedly, even absent any evidence of fraud, voting rights have been trampled under the pretense of election integrity, while spending has remained less regulated. This Part will argue that this divergence is unjustified and undermines fundamental democratic principles.

Defenders of the status quo usually justify the puzzling dichotomy between voting restrictions and spending regulations with the constitutional defense: spending has been classified as a freedom of speech issue and voting as an equal protection issue. However, such a defense fails to explain the varying treatment of different spending regulations, is based on the incorrect assumption that hyperregulation of voting makes elections fairer, and is inconsistent with historical beliefs and the contemporary reality that both voting and spending regulation play a comparable role in ensuring election integrity and protecting democratic ideals.

Proponents of the constitutional defense often argue that the integrity of the voting process is

critical to the functioning of democracy; thus, voting restrictions are defensible in order to ensure that the system is fair and equal. However, these restrictions have led to a system that is all but fair and equal. The disenfranchisement of those without IDs, those incarcerated, or those unable to vote on Election Day due to accessibility issues undermines the very purpose of a representative democracy, since millions of votes are not cast. Moreover, while sensible voting restrictions certainly have a place within the democratic process, it is unclear whether states that have adopted stricter voting restrictions have actually experienced lower levels of voter fraud.[16]

Finally, the constitutional defense implies that voting and spending somehow operate on different democratic planes and that the hyperregulation of voting will lead to more integrous elections. This presumption is flawed for both historical and contemporary reasons. The Founders believed that democratic governance contained two key components: first, a government that "deriv[es its] just powers from the consent of the governed,"[17] and second, elected representatives that prioritize the interests of their constituents above their own.[18] In other words, from its inception, American democracy has been predicated not only on voting integrity but also on the expectation that elected representatives are devoid of corruption and beholden only to the will of their constituents.[19] In the modern election setting, voting and spending have joint importance in the roles that they play in getting candidates elected. While voting is often the focus of elections, the financing of the political process is similarly important. Spending is not only key for candidates' messaging and outreach but also is also important as an avenue for citizens to participate meaningfully in the democratic process.

16. *See* Elaine Kamarck & Christine Stenglein, *Low Rates of Fraud in Vote-by-Mail States Show the Benefits Outweigh the Risks*, BROOKINGS INST. (June 2, 2020), https://www.brookings.edu/blog/fixgov/2020/06/02/low-rates-of-fraud-in-vote-by-mail-states-show-the-benefits-outweigh-the-risks [https://perma.cc/92VG-E4RX].

17. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

18. STEPHEN BREYER, ACTIVE LIBERTY 15–16 (2005).

19. *See* Daniel I. Weiner & Benjamin T. Brickner, *Electoral Integrity in Campaign Finance Law*, 20 N.Y.U. J. LEGIS. & PUB. POL'Y 101, 116 (2017) (arguing that electoral integrity is measured by a process that "effectuates the will of the voters and . . . does not create incentives that subsequently undermine the loyalty of elected leaders to their constituents").

B. THE CASE OF GEORGIA

Georgia best illustrates how many legislatures address election integrity, as it serves as a microcosm of the election integrity debate unfolding across the country. After the 2020 presidential election, President Trump alleged widespread voter fraud across the country, including in Georgia.[20] President Trump's allegations led to numerous lawsuits in the state and forced it to undergo two recounts and certify President Biden's victory multiple times.[21] Ultimately, in addition to certifying President Biden's win, Georgia election officials conducted a thorough investigation, concluding that there was no evidence of widespread voter fraud in the state.[22] Despite this determination, months later the Republican-controlled Georgia state legislature passed a sweeping voting-restriction bill. This bill included limitations on mail-in voting options, unlimited challenges to a voter's registration status, and additional voter ID requirements.[23]

While the Georgia bill has received harsh public criticism for its restrictiveness, what has received less attention is the fact that the bill was passed as the state simultaneously expanded spending rights, even in the face of serious campaign finance concerns. In 1974, Georgia was one of the few states that passed an ethics law creating a commission to oversee the role that money played in state politics.[24] This commission grew for over thirty years and, in 2008, closed over one hundred ethics cases related to campaign finance violations and collected hundreds of thousands of dollars in civil penalties.[25] However, from 2008 to 2013, the state cut the commission's budget

20. Reality Check Team, *Georgia Election: Donald Trump's Phone Call Fact-Checked*, BBC NEWS (Jan. 4, 2021), https://www.bbc.com/news/election-us-2020-55529230 [https://perma.cc/W3KB-XR38].
21. Amanda Zoch, *Georgia Completes Second Statewide Recount*, NAT'L CONF. STATE LEGISLATURES (Dec. 9, 2020), https://www.ncsl.org/research/elections-and-campaigns/georgia-completes-second-statewide-recount-magazine2020.aspx [https://perma.cc/U4ED-XC34].
22. Associated Press, *Investigators Say 'No Fraudulent Absentee Ballots' in Georgia County*, PBS (Dec. 30, 2020, 11:44 AM), https://www.pbs.org/newshour/politics/watch-investigators-say-no-fraudulent-absentee-ballots-in-georgia-county [https://perma.cc/J48H-ELB3].
23. Tessa Stuart, *Everything You Need to Know About Georgia's New Voting Law*, ROLLING STONE (Mar. 26, 2021, 11:18 AM), https://www.rollingstone.com/politics/politics-news/georgia-voting-bill-brian-kemp-voter-suppression-1147493 [https://perma.cc/8VSJ-A5HL].
24. COMMON CAUSE GA., ETHICS REFORM IN GEORGIA 1 (2018), https://www.commoncause.org/georgia/wp-content/uploads/sites/9/2018/03/Common_Cause_Georgia_Ethics_Report_2016.pdf [https://perma.cc/5QNL-3623].
25. *Id.* at 2.

by over forty percent, reducing its staff by nearly seventy percent.[26] After the dramatic downsizing of the commission's budget and capacity, in 2019 the remaining few members of the commission proceeded to raise state campaign contribution limitations.[27] This retreat from campaign finance oversight culminated in more "dark money" spending in the 2020 Georgia elections than any other congressional election.[28]

Despite the large amount of political spending in 2020, the Georgia state legislature has failed to meaningfully regulate such activity or even bolster disclosure laws in an effort to improve transparency.[29] In this sense, Georgia is an example of the current state of affairs when it comes to regulating voting versus spending. Although state election officials conclusively declared that no election fraud took place, the state legislature took a bevy of steps to restrict the free exercise of voting under the pretense of "election integrity." However, in the face of evident election integrity issues regarding dark money spending and campaign finance violations, the legislature is silent.

C. AN UNJUSTIFIED DIVERGENCE

As this Note observed in Part II, the regulatory paradox present in Georgia is not unique but instead is part of an established trend of inconsistent regulation of voting versus spending. At its core, this inconsistency has been justified by a belief that voter fraud is more damaging to American democracy than campaign finance violations. That is, voter fraud can fundamentally change the results of an election and undermine the democratic process, whereas campaign finance

26. *Id.*

27. Benjamin Keane & Robert Sills, *Georgia Campaign Finance Commission Raises Limits on State Election Contributions*, JD SUPRA (May 7, 2019), https://www.jdsupra.com/legalnews/georgia-campaign-finance-commission-42746 [https://perma.cc/4UX9-U84Z].

28. Ciara Torres-Spelliscy, *Dark Money in the 2020 Election*, BRENNAN CTR. FOR JUST. (Nov. 20, 2020), https://www.brennancenter.org/our-work/analysis-opinion/dark-money-2020-election [https://perma.cc/9P2C-UF2T]; Anna Massoglia, *Digital Ad Bans End for Georgia Runoffs, Opening the Door to More 'Dark Money,'* OPENSECRETS (Dec. 16, 2020, 1:41 PM), https://www.opensecrets.org/news/2020/12/digital-ad-bans-end-for-georgia-senate-runoffs [https://perma.cc/S35X-AQ9Z].

29. In February 2021, the Georgia Senate passed a bill that allowed the "governor, lieutenant governor, a party's nominee for those positions, and House and Senate Republican and Democratic leaders [to] create [leadership] committees," to which "lobbyists, industry associations or businesses" could donate as much money as they like. James Salzer, *Georgia Senate GOP Passes Bill to Get More Money from Big Political Donors*, ATLANTA J.-CONST. (Feb. 26, 2021), https://www.ajc.com/politics/georgia-senate-leaders-push-bill-to-get-more-money-from-big-political-donors/D3YV4C3NZNCEPG6TJ5PCABGPH4 [https://perma.cc/3ZBB-NNXD].

violations do not pose as profound of a threat. This argument notably overlooks how institutions treat allegations of voter fraud versus claims of campaign finance violations.

In recent decades, voter fraud—such as the use of fake IDs or manipulated mail-in ballots—has been exceedingly uncommon. Even when it happens, fraud rarely takes place on a scale significant enough to actually influence an election. However, even if voter fraud did exist at the level that voting-restriction proponents claim it does, immediate and often effective remedies exist for voting violations. Claimants of voter fraud can place the election results on hold until the alleged issue is adequately investigated. Consider the 2020 race for Iowa's 2nd Congressional District as an example. At the end of the voting period, Republican Mariannette Miller-Meeks led Democrat Rita Hart by only six votes.[30] Hart then claimed that ballots were improperly counted and proceeded to file claims with both the state canvassing board and the U.S. House of Representatives.[31] The House of Representatives refused to certify a winner and prepared to proceed with an investigation although they did not ultimately do so, since Hart withdrew.[32] Nevertheless, the various institutions available to investigate Hart's claim serve as a reminder that when elections are close and there are claims of ballot irregularities, there are a number of immediate remedies available to candidates.

The rapid adjudication of voting irregularities is best appreciated when contrasted with the remedies available for campaign finance violations. First, there are more windows for campaign finance violations to occur than for voter fraud to occur. While voter fraud takes place solely during the voting process, campaign finance issues arise during campaigning, elections, and even once an

30. Ben Kamisar, *Iowa Democrat Rita Hart Files Challenge to Six-Vote Defeat in the House*, NBC NEWS (Dec. 22, 2020, 9:45 AM), https://www.nbcnews.com/politics/meet-the-press/blog/meet-press-blog-latest-news-analysis-data-driving-political-discussionn988541/ncrd1252095 [https://perma.cc/BC8T-CLSX].
31. *Id.*
32. *Id.*

official is in office. If violations do arise, then the remedy is often slow, arduous, and, depending on the relevant disclosure laws, hard to detect. Once again, Georgia can serve as a useful example. In 2019, former Georgia Senator David Perdue was fined $30,000 for campaign finance violations.[33] Senator Perdue was penalized for accepting hundreds of thousands of dollars in campaign contributions that both exceeded the contribution limit and came from prohibited entities.[34] What was often overlooked in the coverage of Senator Perdue's penalty was the fact that the violations occurred five years prior, in 2014, during a race he ultimately won.[35] Unlike claims of voter fraud, which are often quickly apparent due to the closely monitored nature of elections, Senator Perdue's infractions were not detected until half a decade later, and when they were detected, his fine was a fraction of the amount of money he illegitimately received.

These examples are not to suggest that voting should have no restrictions, and campaign finance should be heavily regulated. Instead, they show that the inconsistent regulation of these similarly important rights is unjustified. Moreover, as the next section shows, the system as it exists has a detrimental impact on the modern democratic system.

Writing sample concluded. For the complete Note, please visit the Southern California Law Review website.

33. Russ Bynum, *Sen. Perdue's Campaign Fined $30,000 for Fundraising Violations*, PBS (Apr. 19, 2019, 6:28 PM), https://www.pbs.org/newshour/politics/sen-perdues-campaign-fined-30000-for-fun draising-violations [https://perma.cc/B9G5-M62H].
34. *Id.*
35. *Id.*

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Date of JD/LLB	**May 13, 2023**
Class Rank	**I am not ranked**
Law Review/Journal	**Yes**
Journal(s)	**Journal of Law and Public Policy**
Moot Court Experience	**Yes**
Moot Court Name(s)	**Langfan Family First Year Moot Court** **Rossi Moot Court** **Cuccia Cup Moot Court**

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June 17, 2023

The Honorable Kiyo A. Matsumoto
United States District Court for the Eastern District of New York
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Brooklyn, NY 11201

Dear Judge Matsumoto,

I have recently graduated from Cornell Law School and I am writing to apply for a clerkship in your chambers for the 2025-26 term. I will be working as an associate in the New York City office of the law firm Debevoise & Plimpton for two years prior to starting a clerkship, and I plan to continue practicing in New York afterwards. I would be open to a different term date or a two-year clerkship.

As Executive Bench Editor of the Moot Court Board, I have worked closely with two other students to select the problems for the internal competitions and write bench memos for students, professors, and visiting federal judges. This work has allowed me to develop skills and knowledge that would be highly relevant to the work I would do as a judicial law clerk. This experience combined with my work as an Executive Editor on a journal and my involvement in multiple clinics and writing classes has provided me with a strong foundation of skills to be an effective law clerk. Additionally, my varied work experience prior to law school makes me uniquely well positioned to tackle the challenges of working in chambers.

Enclosed please find my resume, two writing samples, and my law school transcript. I am also submitting recommendations from Judge Richard Wesley (2d Cir.), and Professors Aziz Rana, and Sandra Babcock. I will be in New York City on June 28 to interview with another judge in the Eastern District of New York, and I would be more than happy to extend my stay and interview in-person with you while I am there. Of course, I am more than willing to interview whenever is most convenient for you. Thank you for your consideration.

Respectfully,

Zesemaiat Debessai Corino

Zesemaiat Debessai Corino
316 E. State Street, Ithaca, NY 14850 | +1 (607) 280 7785 | zd233@cornell.edu | LinkedIn

EDUCATION

Cornell Law School **May 2023**
Juris Doctor: 3.448 *Ithaca, NY*
Activities: JOURNAL: Journal of Law and Public Policy, *Executive Editor.*
MOOT COURT: Moot Court Board, *Executive Bench Editor*; Rossi Moot Court Competition, *Quarterfinalist*; Cuccia Cup Moot Court Competition, *Top 16*; Cuccia Cup Brief Competition, *Finalist*; Langfan 1L Moot Court Competition, *Top 32.*
STUDENT ORGANIZATIONS: Cornell Association of Law and Economics, *Treasurer*; International Arbitration Society, *External Events Chair*; Black Law Students Association, *Public Relations Chair*.

University of Bristol **June 2017**
Bachelor of Science in Politics, *with Honors* *Bristol, United Kingdom*
Activities: Jacari and Student Action for Refugees, *tutor*; Enactus Social Enterprise, *team leader*; Bristol Politics Society; *member*.

EXPERIENCE

Debevoise & Plimpton **May 2022–July 2022**
Summer Associate *New York, NY*
- Drafted part of an amicus brief for a case at the 9th Circuit, conducted legal research to prepare an attorney for an oral argument at the SDNY, completed an antitrust analysis for a client considering a number of acquisitions.

Lawyers Without Borders **June 2021–August 2021**
Rule of Law and Human Rights Intern (Equity Fellowship Recipient) *Washington, DC (Remote)*
- Supported capacity building projects against child labor, human trafficking, and counterterrorism. Conducted research and prepared a memo on non-profit registration laws in Kenya and Tanzania.

Dear Future Colleague **July 2020–November 2021**
Director of Volunteer Support *Remote*
- Helped launch an organization that provides mentorship to underrepresented applicants in the law school admissions process. Joined a group of law students from several different law schools to start this organization; initially ran operations to support volunteer mentors, then joined fundraising efforts and independently raised more than USD 10,000. Facilitated the merger with an established educational charity.

Ministry of Justice (Government of Eritrea) **November 2019–March 2020**
Research Assistant *Asmara, Eritrea*
- Led a research project on the international legal framework for refugees and asylum seekers. Presented research findings to various stakeholders within the Ministry. Conducted a study on the country conditions in Eritrea that allow Eritrean asylum seekers to obtain refugee status.

Anjarwalla & Khanna LLP **September 2019**
Legal Intern *Nairobi, Kenya*
- Conducted legal research for various clients, including Kenya's largest airline company. Completed a comparative research project on the legal framework for whistleblower protections in Kenya. Assisted with the preparation of documents for a closing.

African Chamber of Commerce in China (AfCham) **December 2018–April 2019**
Founding Editor of 'Karateng' (first edition linked here) *Shanghai, China*
- Launched and managed the AfCham magazine. Handled content creation; deliberated with various stakeholders within AfCham on the direction of the magazine, contributed several articles and interviews for each publication, found other journalists to contribute articles. Sourced advertisement and promoted magazine to businesses and thought leaders in the China-Africa policy space.

MAIES International Bilingual Kindergarten **May 2018–January 2019**
Teacher *Shanghai, China*

- Taught English, music, arts & crafts, and various other subjects to two different classes. Contributed to creating the English language curriculum for the year group. Communicated with parents on students' progress and devised individualized learning goals for each student.

Kid Castle Educational Corporation **December 2017–May 2018**
Teacher *Shanghai, China*

- Taught English at an after-school English training center to 12 different classes. Taught students between the ages of 3-12. Regularly communicated with parents on the students' learning strategy, goals, and their progress. Presented the school's curriculum and teaching style to prospective parents and students.

KPMG- International Development Assistance Services (IDAS) **July 2016–August 2016**
Intern *Dar Es Salaam, Tanzania*

- Researched the impact of a civil society initiative in Tanzania; analyzed the project through different impact assessment tools and presented findings to the project leaders within IDAS. Assisted with the development of a bid for a new Department of International Development (UK) funded project and helped prepare proposal documents.

United Nations Environment Program (UNEP) **June 2015–August 2015**
Executive Office Intern *Nairobi, Kenya*

- Researched and wrote a brief for the Executive Director on a World Health Organization conference discussing the opportunities for collaboration with UNEP. Assisted with various other tasks supporting the UNEP Chief of Staff.

LANGUAGES: Italian (proficient), Tigrigna (conversational), Mandarin Chinese (beginner), French (beginner)

Cornell Law School - Grade Report - 06/15/2023

Zesemaiat Debessai Corino

JD, Class of 2023

Course	Title	Instructor(s)	Credits	Grade
Fall 2020 (8/25/2020 - 11/24/2020)				
LAW 5001.1	Civil Procedure	Clermont	3.0	B-
LAW 5021.1	Constitutional Law	Rana	4.0	A-
LAW 5041.3	Contracts	Taylor	4.0	A-
LAW 5081.2	Lawyering	Kelley-Widmer	2.0	B+
LAW 5151.2	Torts	Heise	3.0	B+

	Total Attempted	Total Earned	Law Attempted	Law Earned	MPR Attempted	MPR Earned	MPR
Term	16.0	16.0	16.0	16.0	16.0	16.0	3.3762
Cumulative	16.0	16.0	16.0	16.0	16.0	16.0	3.3762

Spring 2021 (2/2/2021 - 5/7/2021)				
LAW 5001.5	Civil Procedure	Holden-Smith	3.0	B+
LAW 5061.3	Criminal Law	Yellen	3.0	B+
LAW 5081.2	Lawyering	Kelley-Widmer	2.0	B+
LAW 5121.3	Property	Alexander	4.0	B+
LAW 6791.1	Public International Law	Richardson	3.0	A-

	Total Attempted	Total Earned	Law Attempted	Law Earned	MPR Attempted	MPR Earned	MPR
Term	15.0	15.0	15.0	15.0	15.0	15.0	3.3980
Cumulative	31.0	31.0	31.0	31.0	31.0	31.0	3.3867

Fall 2021 (8/24/2021 - 12/3/2021)				
LAW 6101.1	Antitrust Law	Hay	3.0	B
LAW 6131.2	Business Organizations	Whitehead	4.0	S
LAW 7270.101	Foreign Affairs and the Separation of Powers	Kreps	3.0	B+
LAW 7855.301	International Human Rights Clinic I	Babcock	4.0	A

	Total Attempted	Total Earned	Law Attempted	Law Earned	MPR Attempted	MPR Earned	MPR
Term	14.0	14.0	14.0	14.0	10.0	10.0	3.4990
Cumulative	45.0	45.0	45.0	45.0	41.0	41.0	3.4141

Spring 2022 (1/25/2022 - 5/2/2022)				
LAW 6011.1	Administrative Law	Rachlinski	3.0	B+
LAW 6431.1	Federal Courts	Dorf	4.0	S
LAW 7790.301	Afghanistan Assistance Clinic	Yale-Loehr	6.0	B+
LAW 7860.301	International Human Rights: Litigation and Advocacy II	Larimer	4.0	A

	Total Attempted	Total Earned	Law Attempted	Law Earned	MPR Attempted	MPR Earned	MPR
Term	17.0	17.0	17.0	17.0	13.0	13.0	3.5361
Cumulative	62.0	62.0	62.0	62.0	54.0	54.0	3.4435

Fall 2022 (8/22/2022 - 12/16/2022)				
LAW 6263.1	Criminal Procedure - Adjudication	Blume	3.0	B+
LAW 6641.1	Professional Responsibility	Wendel	3.0	A-
LAW 7260.101	Federal Appellate Practice	Blume/Wesley	4.0	SX
LAW 7878.301	International Human Rights: Litigation and Advocacy Clinic III	Babcock/Larimer	4.0	A-

	Total Attempted	Total Earned	Law Attempted	Law Earned	MPR Attempted	MPR Earned	MPR
Term	14.0	14.0	14.0	14.0	10.0	10.0	3.5680
Cumulative	76.0	76.0	76.0	76.0	64.0	64.0	3.4629

Spring 2023 (1/23/2023 - 5/16/2023)

LAW 6401.1	Evidence	K. Weyble	4.0	B+	
LAW 6437.1	Federal Practice and Procedure	Nathan	1.0	SX	
LAW 6461.1	Financial Institutions	Omarova	3.0	B	
LAW 7879.301	International Human Rights: Litigation ad Advocacy Clinic IV	Babcock	4.0	A-	

	Total Attempted	Total Earned	Law Attempted	Law Earned	MPR Attempted	MPR Earned	MPR
Term	12.0	12.0	12.0	12.0	11.0	11.0	3.3636
Cumulative	88.0	88.0	88.0	88.0	75.0	75.0	3.4484

Total Hours Earned: 88

Received JD on 05/28/2023

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

RICHARD C. WESLEY
UNITED STATES CIRCUIT JUDGE

March 22, 2023

585-243-7910
FAX 585-243-7915

Re: Application of Zesemaiat Corino

Dear Judge

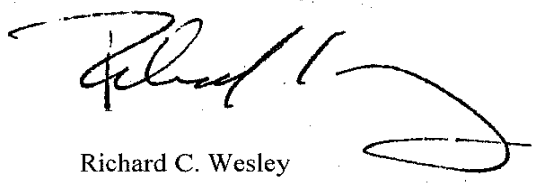
Reading Zesemaiat (Sammy) Corino's resume I get a headache. How has one person managed to cram all those life experiences in such a short time on this earth? Sammy was born in the UK to a US citizen father and a British mom who now sells wine in Kenya—I am not making this up.Dad works for the UN and Sammy and her family have spent much of their lives in Africa. The result is a marvelously well-traveled and experienced young lawyer who possesses one of the most delightful personalities I have ever encountered in my ten years of teaching at Cornell, and thirty-five years of judging in state and federal courts.

Sammy did her undergraduate work in the UK and then spent some time traveling, teaching and working in law and media. She came to Ithaca in the Fall of 2020; I had her in my class during her 3-L year. I teach Federal Appellate Practice with John Blume. The course entails writing a brief and two oral arguments from the Supreme Court calendar with the final argument in NYC in front of Article III judges at the Thurgood Marshall U.S. Courthouse.

Sammy argued the petitioner's side of *303 Creative v Elenis*. She did a lovely job synthesizing First Amendment law as it involves the regulation of commercial activity. She has a level of enthusiasm for the law that is both refreshing and encouraging—you get the sense that she is excited about the law and "figuring out" legal problems. I think she would bring that enthusiasm to chambers. She's done well here at Cornell with a position of responsibility on the Moot Court Board and several other student organizations. This Fall, Sammy will begin her career at Debevoise following up on a successful summer associate experience last summer.

I encouraged Sammy to think about clerking. She will bring her enthusiasm for the law and her wide array of life experiences to the task. She'll be a joy to work with. I recommend her to you without reservation and would be more than happy to discuss her qualifications over the phone should you see fit.

Very truly yours,



Richard C. Wesley

RCW/sm

LIVINGSTON COUNTY GOVERNMENT CENTER
6 COURT STREET
GENESEO, NEW YORK 14454-1030

Cornell University
Law School

Lawyers in the Best Sense

SANDRA L. BABCOCK
Clinical Professor
157 Hughes Hall
Ithaca, New York 14853-4901
T: 607.255.5278
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E: slb348@cornell.edu

June 16, 2023

The Honorable Kiyo Matsumoto
United States District Court
For the Eastern District of New York
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn,NY 11201-1818

RE: Application of Zesemaiat Corino for a Judicial Clerkship

Dear Judge Matsumoto:

Zesemaiat Corino is a third-year Cornell Law student who stands out for her strong writing, leadership, professionalism, and support of other students. I highly recommend her for a judicial clerkship.

I have known and worked with Ms. Corino since the fall of her second year. She was already a gifted student when I began working with her, but over the course of the last year and a half I have watched her grow into a highly motivated and skilled advocate. She received an A in her first two semesters in the clinic, and has now returned as an advanced student.

If there is one thing that stands out about Ms. Corino, it is her ability to excel despite multiple commitments. While handling the demands of a full class schedule, she has served as Executive Editor of the Journal of Law and Public Policy and played a leadership role in several student organizations. In her 1L year, she founded an organization that matched law students willing to serve as mentors to over 300 applicants from underrepresented backgrounds. As a 2L, she juggled two clinics, journal work, participation in two moot court competitions, and leadership on the Moot Court Board. Her GPA, which places her in the middle of the class, should be read with this in mind. Ms. Corino has continually supported prospective and current law students, and her extracurricular activities have helped her hone her leadership and lawyering skills. A raw GPA is only a partial measure of academic skills, and in the case of Ms. Corino, wholly fails to capture her talent and potential.

In the clinic, Ms. Corino's work has been consistently excellent. Over the last year, she has worked on cases of individuals sentenced to death in the United States, Malawi, and Tanzania. Each case posed unique challenges and tested Ms. Corino's analytical skills, resourcefulness, and resilience. One case, in the United States, involved a woman facing imminent execution. At my request, Ms. Corino researched and wrote a legal argument for a state habeas petition based on the Supreme Court's decision in *Batson v. Kentucky.* In the case of a woman who killed her abusive partner in Tanzania, Ms. Corino identified gaps

in the factual record, developed an investigation plan, then helped write an appeal to the Tanzanian Court of Appeal. And for a case in Malawi, she helped prepare a clemency petition on behalf of a man on death row who was dying from AIDS.

These cases required her to quickly absorb information about three different legal systems, and to master the advocacy skills and writing styles that would be most effective in three different legal cultures.

These were extraordinarily demanding assignments. Yet Ms. Corino embraced the challenge, turning in well-written drafts and repeatedly honing her prose. Her writing has always been clear and precise, but it has become even stronger and more persuasive over the last year.

Midway through her first semester, after Ms. Corino had completed the clemency petition for our client in Malawi, he died of AIDS in a prison hospital. This was a devastating setback, and many students would have struggled to find meaning in their work after such a result. What was so impressive about Ms. Corino is that she was able to process her emotions, but did not allow her sadness to affect her work on behalf of her other clients. This is something that many experienced attorneys struggle with, and her resilience in the face of such a tragic outcome reflects a level of emotional maturity that is unusual in a law student.

Ms. Corino is also a stellar team player. She is unfailingly generous with other students, and this semester is serving as a mentor for the new clinic students. She is outgoing and even-tempered. I have no doubt that she would get along well with co-clerks and staff.

Ms. Corino is clear-sighted about the benefits she would derive from a clerkship. She will be in the litigation department of Debevoise & Plimpton, and she feels a clerkship would provide unparalleled insight into litigation strategies in a wide variety of cases. She is also excited by the intellectual challenge: Ms. Corino enjoys research and critical reflection, and would flourish in a chambers that encouraged intellectual debate.

In short, I think Ms. Corino is an excellent candidate for a judicial clerkship—and with two years at Debevoise under her belt, she will be even more adept as a researcher, writer and colleague. I would be happy to answer any questions or concerns that you have. You can reach me at slb348@cornell.edu, or at 312-823-2330.

Sincerely,

Sandra L. Babcock
Clinical Professor

Cornell Law School

AZIZ F. RANA
Richard and Lois Cole Professor of Law

106 Myron Taylor Hall
Ithaca, New York 14853-4901
T: 607.255.5423
F: 607.255.7193
E: ar643@cornell.edu

June 16, 2023

The Honorable Kiyo Matsumoto
United States District Court
for the Eastern District of New York
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, NY 11201-1818

Dear Judge Matsumoto:

I enthusiastically recommend Zesemaiat (Sami) Debessai Corino for a judicial clerkship. She is incredibly thoughtful, intellectually curious, and very committed to legal study and practice. I have no doubt whatsoever that she would be a terrific asset to your office.

In the fall of 2020, I was Sami's small section professor for Constitutional Law, a four credit lecture course that is required for all first year law students at Cornell. Sami was among the strongest students in a course of 35 people and received a grade of A-. Given the grading standards and rigor of the class, this was no small accomplishment. In fact, there were only 2 students that received a flat A and if I were not constrained by the curve she would have received one as well.

I also interacted with Sami extensively inside and outside of the classroom. In all these interactions, I was struck by Sami's analytical precision and obvious interest in the material. She was always meticulously prepared for class. I could count on her to provide thoughtful and sophisticated comments, which were rooted in the assigned text. In organizing discussion, I especially appreciated her willingness to engage with the issues and to stake out clear but nuanced positions. I also appreciated Sami's respectfulness to her fellow students. She struck me throughout the course as a self-possessed and mature student with a real strength for interpersonal relations. Indeed, due to her considerate manner and the high quality of her interventions, Sami's fellow students similarly appeared to genuinely value her comments and role in the classroom.

Sami displayed the same analytical skill, focus, and creativity in her written work. Her exam was incredibly careful about the doctrine and highlighted her gift for argumentative clarity. In particular, her response to one of the central fact patterns, which concerned legislative responses to Covid-19 and covered topics in the commerce clause and sex equality jurisprudence, was excellent. It offered a rigorous assessment of the strengths and limitations of precedent and showed an obvious talent for legal writing.

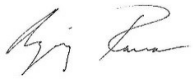
The Honorable Kiyo Matsumoto
June 16, 2023
Page 2

Outside of class, such as in office hours, Sami was just as thoughtful in discussing her career trajectory, intellectual commitments, and broader goals. And in the time since fall 2020, my estimation of Sami has only been reinforced. During her time at Cornell, Sami has thrown herself into law school. She has been involved in everything from the Journal of Law and Public Policy to the Moot Court Board. She has excelled too in numerous moot court competitions. All of these have been settings in which she has continued to demonstrate her talent for legal research and writing.

All in all, I am absolutely confident that Sami would make a terrific clerk. She is incredibly sharp, dedicated, and very mature. She has the legal writing skills to excel at the job and the interpersonal qualities to work incredibly well in a group office setting. As you can tell, I am a big fan and believe she would make an excellent choice for your office.

Please feel free to contact me by e-mail at ar643@cornell.edu or by phone at 607-319-4745 if you have any additional questions.

Sincerely,



Aziz Rana
Richard and Lois Cole Professor of Law
Cornell Law School

Zesemaiat Debessai Corino

Cornell Law School

Writing Sample

Appellate brief for petitioner submitted for Federal Appellate Practice class (Fall 2022)

This brief was written collaboratively with one other student. The appended sections are my own work product and have not been substantially edited by any other person. I have removed the following sections: parties to the proceedings, opinions below, jurisdiction, introduction, statement of the case, and the majority of the second half of the argument.

Summary

This brief was written on behalf of the petitioner, Dylann Storm Roof, who was the defendant-appellant below. Mr. Roof's counsel wanted to bring in evidence of Mr. Roof's mental health as mitigation at the penalty phase. Mr. Roof asked the court if he could instruct his attorneys not to present a mental-health defense, but the district court judge ruled that counsel alone had the authority to select mitigation evidence. Consequently, Mr. Roof requested to represent himself at the penalty phase. Mr. Roof was then sentenced to death. On appeal, he asked the Fourth Circuit to find that his waiver of counsel was invalid because it was premised on the district court's incorrect statement of the law. The Fourth Circuit rejected his claim. Mr. Roof then petitioned the Supreme Court for review.

No. _____

In The
Supreme Court of the United States

DYLANN STORM ROOF,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE
FOURTH CIRCUIT

BRIEF FOR PETITIONER

.

ZESEMAIAT DEBESSAI CORINO
[…]
Counsel of Record
DEBESSAI, CORINO & GUST LLP
123 MAIN STREET
ITHACA, NY 14850

Counsel for Petitioners

1

Question Presented

When a competent capital defendant and his counsel disagree on whether to present mitigating evidence depicting him as mentally ill, who gets the final say?

[…]

Summary of the Argument

I. A Defendant Has An Autonomy Right Not to Present Mental Health Mitigation Evidence

This Court's jurisprudence firmly establishes that a defendant has the right to determine the fundamental objectives of their defense. *See Faretta v. California*, 422 U.S. 806, (1975); *McCoy v. Louisiana*, 138 S.Ct. 1500 (2018). The Sixth Amendment does not merely provide a right to counsel but also affirms that counsel takes on the role of *aiding* the defendant in *their* defense. *Faretta* distinguishes between a defendant's fundamental choices about their objectives and counsel's power to dictate trial strategy. 422 U.S. at 817.

Mr. Roof's disagreement with his counsel is not about trial strategy, but rather centers on Mr. Roof's fundamental objectives for his defense. Allowing Mr. Roof's counsel to label him as mentally ill undermines Mr. Roof's Sixth Amendment autonomy rights. Mr. Roof does not believe he is autistic, and does not want to face the stigma and shame of being labeled as mentally ill. Counsel's decision to introduce evidence about Mr. Roof's mental health against his wishes would go squarely against the fundamental decision that Mr. Roof has made: he would rather be sentenced to death than face the consequences of being perceived as mentally ill. Counsel cannot decide otherwise.

This Court's decision in *McCoy* decidedly affirms this right. In *McCoy*, counsel admitted the defendant's guilt in spite of the defendant's continued insistence that he wanted to maintain his innocence. 138 S.Ct. at 1506. The decision highlights that even when counsel's strategy is best positioned to mitigate their client's sentence, the defendant nonetheless maintains the right to make decisions on the objective of the defense. Counsel cannot admit their client's guilt over the client's insistence that they are innocent, even if the evidence is overwhelming and the only hope of sparing the client's life is to do so. Similarly, counsel cannot provide mental health mitigation evidence over their client's insistence that they do not want

such evidence presented, even if this provides the best chance of avoiding the death penalty. A defendant's main objective may be to avoid "the opprobrium that comes with admitting he killed family members." *Id.* at 1508. Here, Mr. Roof wishes to avoid being labelled mentally ill more than he wishes to avoid the death penalty.

The Ninth Circuit has appropriately interpreted *McCoy* as affirming a defendant's right to prevent an insanity defense. *United States v. Read*, 918 F.3d 712 (9th Cir. 2019). *Read* emphasized the defendant's autonomy right not to present a defense that carries grave personal consequences that go beyond the sphere of trial tactics. *Read*, 918 at 720. The Ninth Circuit disposed of the government's argument that Read's contention against presenting an insanity defense was a disagreement on trial tactics as opposed to a fundamental choice on the objective of the defense. This Court should similarly dispose of the argument that presenting a mental health mitigation defense is merely a decision on trial tactics. If Mr. Roof's counsel presents evidence of mental illness and autism, Mr. Roof will suffer the consequences of the stigma that comes with such a label. Mr. Roof has an autonomy right to "[choose] to avoid contradicting his own deeply personal belief that he is sane," as he alone suffers the personal costs of presenting such a defense. *Read*, 918 F.3d at 721.

II. The Decision to Forego Mitigation Evidence is Fundamental and Does Not Fall Within the Range of Strategic Decisions Left to Counsel

Allowing Mr. Roof to decide whether to bring a mental health mitigation defense is consistent with this Court's established case law, as it is a deeply personal decision that goes to the objective of the defense, as opposed to the strategy. Decisions that go either to the ultimate objective of the defense or are profoundly personal—matters the defendant must admit about himself—are deemed fundamental decisions that the defendant alone makes. The Court has established that the defendant has the right to decide to plead guilty; the right to waive a jury trial; the right to testify on one's own behalf; the right to

appeal; and, with some limits, the right to represent themselves. *See Jones*, 463 U.S. at 750. Strategic or tactical decisions on the other hand implicate case management, efficiency, and expertise concerns, and include raising objections, making specific arguments, and scheduling matters. *See New York v. Hill*, 528 U.S. 110, 115 (2000).

The decision to forego mental health mitigation evidence is not a strategic decision as it does not implicate concerns we typically associate with these decisions. It is a fundamental decision that is both personal and central to the objective of the defense. It forces the defendant to reveal stigmatizing and intimate details about themselves and their lives and is fundamental to the story they want to present in their defense.

Argument

I. A Defendant has a Sixth Amendment Autonomy Right to Determine His or Her Own Defense

Mitigation at the sentencing stage serves as the defendant's prayer for the court to grant them a more lenient penalty. Defendants have the autonomy to choose whether to present this prayer. The Sixth Amendment "does not provide merely that a defense shall be made for the accused; it grants to the accused personally the right to make his defense." *Faretta*, 422 at 819. Counsel's job is to choose how to present mitigation, but this authority does not extend to decisions on the objective of the defense. "The language and spirit of the Sixth Amendment contemplate that counsel, like the other defense tools guaranteed by the Amendment, shall be an *aid* to a willing defendant." *Faretta*, 422 at 820 (emphasis added).

The district court's failure to let Mr. Roof choose whether to provide a mitigation defense deprives him of his Sixth Amendment right to control his own defense. "Unless the accused has acquiesced . . . the defense presented is not the defense guaranteed him by the Constitution, for, in a very real sense, it is not his defense." *Id.* For this reason, defendants can represent themselves even if doing so would make a conviction more likely or a sentence more

severe. *Id.* at 834. The Sixth Amendment right is not merely concerned with ensuring fairness in the adversarial process, it also enshrines the defendant's right to make the decisions that are fundamental to his defense. *McCoy*, 138 S.Ct at 1500. "The right to defend is given directly to the accused; for it is he who suffers the consequences if the defense fails." *Faretta*, 422 U.S. at 819–20.

The right of a competent defendant to decide whether or not to provide mitigation evidence is likewise a fundamental choice that must be left to the defendant. The defendant alone suffers the consequences of being labeled mentally ill, of having their deeply personal history and mental health diagnoses disclosed, or of having the mitigation evidence nonetheless fail to convince the jury that their life should be spared. Mr. Roof has repeatedly stated that he does not want mitigation evidence about his mental health presented. He alone will bear the turmoil and defeat that comes with his counsel presenting conclusions about his mental health he believes are untrue, and that are based on deeply personal information.

A. This Court's Decision in *McCoy* Affirmed a Defendant's Autonomy Rights

While Mr. Roof's appeal was pending, this Court decided *McCoy v. Lousiana*, reaffirming the defendant's right to autonomy. 138 S.Ct 1500. In light of this Court's decision in *McCoy*, it is clearer than ever that the defendant—and the defendant alone—has the right to decide whether to present mental health mitigation evidence. Like the decision to plead guilty, this decision is deeply personal and fundamental.

In *Florida v. Nixon*, this Court held that when a defendant neither approves or protests a proposed strategy, counsel may proceed with what they believe is in the defendant's best interest. 543 U.S. 175 (2004). This decision was distinguished by *McCoy*, where the defendant repeatedly protested counsel's decision to admit guilt. *McCoy* was charged with murdering several of his estranged wife's family members. *McCoy*, 138 S.Ct. at 1505–06. The evidence against McCoy was overwhelming and his counsel determined that the only chance McCoy

had of avoiding the death penalty was to admit guilt. *Id.* at 1507. McCoy insisted on his innocence and urged his counsel to promote an implausible theory. Counsel instead conceded that McCoy was the killer but argued that his life should be spared because of his mental illness. *Id.* This Court held that the counsel's actions violated McCoy's Sixth Amendment autonomy right to determine the objective of his defense. *Id.* at 1507–12. Even where pleading guilty is undoubtedly the best strategic decision, the defendant maintains the right to plead not guilty and determine the objective of his defense. *Id.* at 1505. The holding affirmed that the defendant has the right to make this decision even if counsel's plan of action is the best chance at acquittal or a more lenient sentence.

The similarities between McCoy and this case are clear. Here, Mr. Roof repeatedly insisted that he did not want to provide mitigation evidence about his mental health. Ex parte hearing at 5–13. He even represented himself just to prevent his counsel from presenting such evidence on his behalf. *Roof*, 10 F.4th at 350. Mr. Roof's counsel believed that Mr. Roof's only chance to avoid the death penalty was to provide mitigation evidence about his mental illness. But Mr. Roof does not believe he is mentally ill or autistic. He wishes to avoid, above all else, what he believes is an indication of diminished mental capacity. *Roof*, 10 F.4th at 352. The disagreement between Mr. Roof and his counsel does not rest on how to best achieve a stated objective but rather on what the objective of the defense is in the first place. Like the defendant in *McCoy*, the actual objective of the defense is at issue here; the decision that counsel is making isn't merely strategic. Counsel is not choosing how best to avoid the death penalty for Mr. Roof, rather they are making the fundamental choice that avoiding the death penalty is more important than labeling Mr. Roof mentally ill.

The government contends that interpreting the term "objective" in *McCoy* to include the decision not to present a mental health mitigation defense is too broad an interpretation. They argue that it would undermine counsel's power to make tactical decisions. Nothing in the language of McCoy suggests that the court meant to give the term "objective" such a narrow definition. In fact, the opposite could be said. The decision notes that wanting to

avoid the stigma attached to admitting that the defendant killed his family members could be an objective of one's defense. *McCoy*, 138 S.Ct at 1508. Similarly, not wanting to appear mentally ill can also be an objective of the defense, especially when the defendant believes this assessment is untrue. Counsel cannot be said to be working towards the same objective as their client when the client has insisted that they would rather face the death penalty than suffer the personal consequences of counsel presenting a certain defense. Here, counsel is usurping the will of the defendant and replacing it with their own judgement. Our interpretation does not subvert established case law on the difference between an objective and a trial tactic. Mr. Roof did not merely disagree on strategy, such as whether to call a particular witness or what objections to raise, he disagreed with counsel on the core purpose of his defense.

Further, the *McCoy* decision is not limited to its facts. It does not merely protect a defendant's decision not to admit guilt. In *McCoy*, the counsel's admission of guilt took the burden off the prosecutor to prove the case beyond a reasonable doubt. 138 S.Ct at 1506. However, this fact isn't dispositive in the Court's autonomy analysis. The decision repeatedly emphasizes a defendant's autonomy, outside of any concerns about undermining the adversarial process. The Court emphasizes that "[j]ust as a defendant may steadfastly refuse to plead guilty in the face of overwhelming evidence against her, or reject the assistance of legal counsel despite the defendant's own inexperience and lack of professional qualifications, so may she insist on maintaining her innocence at the guilt phase of a capital trial." *Id.* This language clarifies that the core concern of the court is the defendant's autonomy, and asserting one's innocence falls within the range of decisions the defendant has autonomy to make.

McCoy affirmed a defendant's right to be a master of his own trial defense and this right applies at capital sentencing as well. The precedent case law supports the position that Sixth Amendment rights to extend to the penalty phase. *See Strickland v. Washington*, 466 U.S. 668, 686 (1984) (noting that with respect to the right to counsel, "[t]he same principle applies to a capital sentencing proceeding").

B. Lower Court Interpretations of *McCoy* Support the Position That Presenting Mental Health Evidence is a Fundamental Objective of the Defense That Should Be Left to Defendants

The Ninth Circuit in *United States v. Read* interpreted *McCoy* as establishing the right for a defendant to prevent an insanity defense. 918 F.3d 712, 720 (9th Cir. 2019). The court held that "a defense of insanity, like a concession of guilt, carries grave personal consequences that go beyond the sphere of trial tactics." *Id.* Echoing *McCoy*'s language and focus on the autonomy interests at stake, the court noted that just as a defendant may wish to avoid the shame of admitting guilt, "a defendant, with good reason, may choose to avoid the stigma of insanity." *Id.* (quoting *Frendak v. United States*, 408 A.2d 364, 377 (D.C. Ct. App. 1979)).

In *Read*, the government claimed that the defendant's aversion to presenting an insanity defense did not implicate *McCoy* "objectives" because he and his counsel did not have a disagreement about the fundamental objective of the defense. *Id.* at 721. The Ninth Circuit disposed of this argument, stating that Read repeatedly stated that an insanity defense was inconsistent with his defense objective. Read's objective was not merely to persuade the jury that he was not mentally responsible for the crime, rather he wanted to present a defense that "the devil made [him] do it." *Id.* However absurd the defense, the court held that Read alone could weigh the personal cost that this alternative strategy brought and decide whether to present a more persuasive insanity defense.

Similarly here, presenting a mental health mitigation defense goes "beyond mere trial tactics." Mr. Roof alone should have the final say on whether to present deeply personal mental health information. And he certainly should not be forced to present such a defense when he fundamentally disagrees with the diagnosis. Mr. Roof alone will suffer personal consequences of such a defense, and the decision that he would rather face death

than suffer those consequences should be protected the same way the Ninth Circuit protected a defendant's choice not to plead an insanity defense.

The Fourth Circuit attempts to distinguish *Read* from the present case by focusing on the fact that an insanity defense entails an admission of guilt, arguing that "[a]cknowledging mental health problems, and bearing any associated stigma, is simply not of the same legal magnitude as a confession of guilt." *Roof*, 10 F.4th at 353. However, the court fails to explain why this would necessarily place a mental health mitigation defense into the bucket of decisions counsel alone makes. This reasoning goes squarely against this Court's reasoning in *McCoy*, which centered on the fact that the defendant had the right to decide on the objective of the defense and not on whether the defendant was making a decision of a certain "legal magnitude."

C. Mental Health Mitigation is Deeply Personal

Even if this Court holds that deciding whether to present some mitigation evidence falls within counsel's purview, mental health assessments are so deeply personal that this Court should affirm the near-universal view that defendants have the right not to label themselves mentally ill.

Although an insanity defense may implicate the right to maintain innocence as established in *McCoy*, "even where this concern is absent, the defendant's choice to avoid contradicting his own deeply personal belief that he is sane, as well as to avoid the risk of confinement in a mental institution and the social stigma associated with an assertion or adjudication of insanity, are still present." *Read*, 918 at 721. In *Maestas*, the Supreme Court of Utah held that a trial court did not err in allowing a defendant to forego presenting personal and embarrassing mitigation evidence. *State v. Maestas*, 299 P.3d 892, 958 (Ut. 2012). The court reasoned that where mitigation evidence involves deeply personal information "such as intimate, and possibly repugnant, details about the defendant's life, background, and family. . . the decision not to put this private information before the jury is a very personal decision." *Maestas*, 299 P.3d at 959.

In order to present a mental health mitigation defense, Mr. Roof's defense counsel would likely need to present psychiatric evaluations, developmental assessments and personal testimonies. Counsel would then argue that Mr. Roof is mentally ill and autistic, a medical diagnosis that centers on Mr. Roof's intimate thoughts and feelings and is a source profound shame for Mr. Roof. Mr. Roof's objection to his counsel presenting deeply personal information goes beyond strategy and tactics and should be left to him to make.

[…]

Conclusion

[…]

ZESEMAIAT DEBESSAI CORINO
[…]
Counsel of Record
DEBESSAI, CORINO & GUST LLP
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ITHACA, NY 14850

Counsel for Petitioner

December 16, 2022

Zesemaiat Debessai Corino

Cornell Law School

Writing Sample

Bench Memorandum for Rossi Cup Moot Court Competition (Feb 2023)

The following memorandum was circulated to students, professors, and federal judges who judged competitors at every stage of the internal moot court competition. It discusses the main issues and the arguments the competitors are likely to make. This memorandum was written collaboratively with two other students, but the appended section is my own work product and has not been substantially edited by any other person.

Background

Petitioner filed a § 1983 claim against Reynolds County and four police officers alleging that the officers "employed deadly force" against him in violation of the Fourteenth Amendment. The Defendants filed a motion for summary judgment, which the District Court granted. The court noted that Kelly was protected only by the Fourth Amendment—and not the Fourteenth Amendment—at the time that the alleged excessive force occurred because the magistrate had yet to make a probable cause determination. The court held that because Kelly's complaint did not reference the Fourth Amendment, it did not sufficiently notify the Defendants as to the precise nature of the claim. The Circuit Court affirmed the District Court's ruling. Kelly argued that the constitutional analysis under the Fourth and Fourteenth Amendments are identical, making the choice immaterial. The court concluded that because the frameworks materially

differed, Kelly's complaint failed to put the Defendants on notice of the particular constitutional harm alleged, violating federal pleading requirements. The Petitioner then filed a petition for writ seeking review of the Circuit Court's decision.

Questions Presented

1. Can an individual who suffered the use of excessive force while being held in a detention facility bring an excessive-force claim under the 14th Amendment instead of the 4th Amendment?

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Discussion

I. Fourth and Fourteenth Amendment Reasonableness Standards

A. DISCUSSION

In *Graham v. Connor* the Court set forth a test for excessive force violations under the Fourth Amendment. 490 U.S. 386 (1989). The Court then announced a distinct, albeit similar, test for excessive force violations under the Fourteenth Amendment in *Kingsley v. Hendrickson*. 576 U.S. 389 (2015). Both the Fourth and Fourteenth Amendment standards for an excessive-force claim assess the objective reasonableness of the use of force. *Kingsley*, 576 U.S. at 396.

Under the Fourth Amendment, the reasonableness of the use of force is assessed by "a careful balancing of "'the nature and quality of the intrusion on the individual's Fourth Amendment interests,'" against the countervailing governmental interest at stake." *Graham*, 490 U.S. at 396 (quoting *Tennessee v. Garner*, 471 U.S. 1, 8 (1985)). The Court set out three factors that should be considered in conducting this balancing. These factors are (1) "the severity of the crime at issue," (2) "whether the suspect poses an immediate threat to the safety of the officers or others," and (3) "whether [the suspect] is actively resisting arrest or attempting to evade arrest by flight." *Graham*, 490 U.S. at 396. This is not an exhaustive list of factors and "proper application requires careful attention to the facts and circumstances of each particular case." *Graham*, 490 U.S. at 396.

Under the Fourteenth Amendment, the reasonableness of the use of force is assessed by considering "[1] the relationship between the need for the use of force and the amount of force used; [2] the extent of the plaintiff's injury; [3] any effort made by the officer to temper or to limit the amount of force; [4] the severity of the security problem at issue; [5] the threat reasonably perceived by the officer; and [6] whether the plaintiff was actively resisting." *Kingsley*, 576 U.S. at 396. This is also not an exhaustive list of factors and merely "illustrate[s] the types of objective circumstances potentially relevant to a determination of excessive force." *Id.*

The similarity between these two objective reasonableness standards is the basis for determining whether adequate notice was given to the Defendants. In the

decision below, the District Court concluded that Kelly had not properly pled his claims and that the Defendants were not put on notice because the two Amendments invoke different standards. *Geddes v. Weber County*, WL 4437405, at *3 (D. Utah Aug. 3, 2020).

B. COMPETITORS' ARGUMENTS

1. Petitioner

Petitioners will argue that the objective reasonableness test applicable to an excessive force claim under the Fourteenth Amendment enunciated in *Kingsley* reflects a particularized application of the same objective standard enunciated by this court in *Graham*.

Petitioners will argue that both *Kingsley* and *Graham* apply an objective reasonableness standard which appraises the situation as a whole, taking into account the facts and circumstances of each particular case. *Kingsley*, 576 U.S. at 397. Petitioners will argue that the Court in *Kingsley* was not creating a whole new standard but rather applying the *Graham* standard in the context of an individual that was incarcerated. The context of an individual being detained merely raises particular considerations that must be addressed under a *Graham* analysis. *See id.* at 397–400. Petitioners will likely point out that although the *Kingsley* Court does not explicitly say they are applying the *Graham* factors, the decision cites *Graham* when listing the considerations that may bear on an objective reasonableness analysis. Stronger Petitioners may also point to the fact that the *Graham* Court anticipated that the non exhaustive list of factors it considered would be supplemented in future decisions to incorporate the government interests at stake. The Court explained that "[d]etermining whether the force used to effect a particular seizure is 'reasonable' under the Fourth Amendment requires a careful balancing of 'the nature and quality of the intrusion on the individual's Fourth Amendment interests' against the countervailing governmental interests at stake." 490 U.S. at 396 (citation and internal quotation marks omitted). Thus, the *Kingsley* factors are simply a reflection of the particular circumstances in *Kingsley* but do not represent a separate standard.

Petitioners may point out that before the Court's decision in *Kingsley*, an excessive force claim was successful under the Fourteenth Amendment if the use of

force "shocked the conscience" or was "applied maliciously and sadistically to cause harm." *E.g., Fennell v. Gilstrap*, 559 F.3d 1212, 1216 n.5, 1217 (11th Cir. 2009) (quotation omitted). In *Kingsley*, the Court held that the Eighth Amendment's malicious-and-sadistic standard—which applies to incarcerated prisoners—does not extend to pretrial detainees. *Kingsley*, 576 U.S. at 400–01. Petitioners may argue that the Court's deliberate shift to a more lenient standard under the 14th Amendment demonstrates that the Court intended to treat pretrial detainees in a similar fashion to non-detained citizens. It is clear that the Court has created different standards for analyzing excessive force claims once there has been a legal determination of guilt. *See Ingraham v. Wright*, 430 U.S. 651, 671 n.40 (1977) ("Eighth Amendment scrutiny is appropriate only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions."). However, this does not justify creating different standards for two groups of legally innocent people, especially since the probable cause threshold—assuming this is the dividing line between an arrestee and a pretrial detainee—is a relatively low burden for the government to bear.

Petitioners will argue that because there is no practical difference between these two standards, any error in pleading was immaterial and the Defendants were put on notice as to the action that was being brought against them. Petitioners will point out that the claim notified Defendants of the factual basis of the action being brought against them. Further, Petitioners may invoke the reasoning set out by the 10th Circuit in *McBeth v. Himes*, which focused on the prejudice to the Defendants from relying on the wrong constitutional amendment. 598 F.3d 708, 716 (10th Cir. 2010). Defendants knew from the complaint that the allegations triggered the Fourth Amendment and in fact argued as such all along. Thus, they suffered no prejudice from Kelly's failure to state his claim under the Fourth Amendment.

2. Respondent

Respondents will argue that the Fourth and Fourteenth Amendments protect different interests and require a distinct analysis. The Fourth Amendment protects non-detailed citizens from unreasonable seizure, whereas the Fourteenth Amendment protects detained citizens from force excessive enough to be deemed punishment. Respondents can emphasize that despite referring to the *Graham* decision, the Court in *Kingsley* never expressly stated it was applying *Graham*. *See Kingsley*, 576 U.S. 389.

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Respondents will argue that the Fourth Amendment inquiry has a lower threshold for plaintiffs because it protects non-detained citizens from unreasonable seizure. *See Bell v. Wolfish*, 441 U.S. 520, 546 ("A detainee simply does not possess the full range of freedoms of an unincarcerated individual."). The Court in *Kingsley* considers the government's interest in maintaining order in the facility in which an individual is detained. *Kingsley*, 576 U.S. at 397. Under the Fourteenth Amendment, courts should "appropriately defer[] to 'policies and practices that in th[e] judgment' of jail officials 'are needed to preserve internal order and discipline and to maintain institutional security.'" *Kingsley*, 576 U.S. at 397 (quoting *Bell*, 441 U.S. at 540) (modifications in the original). Respondents may argue that the deference afforded under the Fourteenth Amendment analysis is reflective of the difference in what constitutes excessive force as punishment under the Fourteenth Amendment and unreasonable seizure under the Fourth Amendment.

Respondents will emphasize that a § 1983 claim must "isolate the precise constitutional violation" committed by a defendant. *Baker v. McCollan*, 443 U.S. 137, 140 (1979). A plaintiff must provide "fair notice of what the ... claim is and the grounds upon which it rests." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (omission in original) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). Respondents can rely on the Court's holding in *Albright*. In *Albright*, the Court dismissed a plaintiff's Fourteenth Amendment excessive force claim after finding that the claim should have been correctly brought under the Fourth Amendment. 510 U.S. at 268-70. Respondents can also distinguish cases such as *McBeth,* where the plaintiff's intentions were clear and the pleading error was a mistake. 598 F. 3d, 708 (10th Cir. 2010). Here, the Petitioner repeatedly insisted that his claim was appropriately brought under the Fourteenth Amendment. Kelly did not isolate the relevant constitutional violation and the Defendants were not given notice of the ground upon which the claim rests. Respondents will argue that even though the Fourth Amendment standard—which Kelly *should* have relied on—is arguably less favorable to the Defendants, notice must point to the correct Amendment under which the excessive force claim is being brought. Particularly because the different standards for excessive force claims require different defenses, including when it comes to the question of qualified immunity and whether there was a violation of clearly established law.

Applicant Details

First Name	**Luis Miguel**
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Last Name	**del Rosario**
Citizenship Status	**U. S. Citizen**
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Address	**Address** Street **217 E 89th St 4B** City **New York** State/Territory **New York** Zip **10128** Country **United States**
Contact Phone Number	**8186353723**

Applicant Education

BA/BS From	**Tufts University**
Date of BA/BS	**May 2018**
JD/LLB From	**Fordham University School of Law** **https://www.fordham.edu/info/29081/center_for_judicial_engagement_and_clerkships**
Date of JD/LLB	**May 1, 2023**
Class Rank	**10%**
Law Review/ Journal	**Yes**
Journal(s)	**Law Review (Editor-in-Chief)**
Moot Court Experience	**Yes**
Moot Court Name(s)	**Moot Court Board - Cardozo BMI Entertainment and Media Law Moot Court Competition** **Dispute Resolution Society - Willem C. Vis Moot International Commercial Arbitration Moot**

Bar Admission

Prior Judicial Experience

Judicial Internships/ Externships	**Yes**
Post-graduate Judicial Law Clerk	**No**

Specialized Work Experience

Recommenders

Bookman, Pamela
pbookman@fordham.edu
Sylvain, Olivier
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Nicholas, Haddad
haddadnw@gmail.com

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Luis Miguel M. del Rosario
217 E 89th Street 4B
New York, NY 10128-3429

May 6, 2023

The Honorable Kiyo A. Matsumoto
United States District Court for the Eastern District of New York
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, New York 11201-1818

Dear Judge Matsumoto:

I am a third-year student at Fordham University School of Law, where I am Editor-in-Chief of the *Fordham Law Review*. I am writing to apply for a clerkship in your chambers for the 2025–2026 term, following my clerkship with the Hon. Denny Chin of the U.S. Court of Appeals for the Second Circuit. As a litigator at heart, I am particularly interested in immersing myself in the fast-paced, fact-intensive cases before trial courts, all while challenging myself to apply the lessons I will have learned during my time at Cravath and at the Second Circuit.

I have extensive experience in drafting and editing various types of writing, a capability to learn new material quickly, and an eagerness to work tirelessly to meet deadlines. During my first-year summer, I wrote a research memorandum for the Hon. George B. Daniels that informed an opinion that was later affirmed by the Second Circuit. As a second-year student, I published a note at the intersection of privacy and property law, drafted portions of discovery-related letter briefs as an extern for the U.S. Attorney's Office, and won an award for my oral advocacy in an international commercial arbitration competition at which 140 teams competed. As a third-year student and Editor-in-Chief of the *Fordham Law Review*, I have deeply enjoyed the challenge of working with students, professors, judges, and practitioners to edit and publish a total 2,548 pages of legal scholarship. And I did that while learning to speak Japanese and learning how to play the piano. I would be honored to apply this experience and work ethic to a second clerkship.

Please find my resume, transcript, and writing sample attached. The writing sample is a brief from my legal writing class, for which I received the Fordham Legal Writing Award. Letters of recommendation from the following professors will arrive under separate cover:

- Professor Olivier Sylvain: (646) 312-8222, sylvain@law.fordham.edu
- Professor Pamela K. Bookman: (212) 636-6598, pbookman@law.fordham.edu
- Professor Nicholas W. Haddad: (917) 755-0087, haddadnw@gmail.com

Additionally, Judge Chin has graciously agreed to serve as a reference and can be reached at Denny_Chin@ca2.uscourts.gov. I remain at your disposal should you require any additional information. Thank you for your kind consideration of my application.

Respectfully yours,

Luis Miguel M. del Rosario

LUIS MIGUEL M. DEL ROSARIO
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EDUCATION

FORDHAM UNIVERSITY SCHOOL OF LAW | New York, NY
J.D., *magna cum laude*, May 2023. G.P.A. 3.643.

Honors: *Fordham Law Review* (Editor-in-Chief); Mary Daly Scholar (as of June 2022); Dean's List (2021-2022); Fordham Legal Writing Award 2021 (presented to 1L students for scholastic excellence in Legal Writing); Dispute Resolution Society (1st Runner Up, Neil Kaplan Award for Best Individual Oral Advocate at the 19th Annual Willem C. Vis East International Commercial Arbitration Moot (2022)); Moot Court (Bench Team, 38th Annual Cardozo Entertainment and Media Law Moot (2022)).

Note: *On the Propertization of Data and the Harmonization Imperative*, 90 FORDHAM L. REV. 1699 (2022).

Activities: Asian Pacific American Law Students Association (Professional Development Chair); OUTLaws.

TUFTS UNIVERSITY | Medford, MA
B.A., *magna cum laude*, May 2018. G.P.A. 3.65. Triple major, International Relations, Economics, French.

Study Abroad: Institut d'Etudes Politiques de Paris (Sciences Po) (Certificate 2016-2017). All courses in French.

EXPERIENCE

THE HON. DENNY CHIN, U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT | New York, NY
Judicial Clerk (2024 – 2025 Term)

CRAVATH, SWAINE & MOORE, LLP | New York, NY
Law Clerk (September 2023)

Summer Associate (Summer 2022)
- Drafted an expert report, prepared a witness for a deposition, and conducted document review in a securities class action
- Pro bono: drafted briefs in a COVID-19 business interruption insurance case and completed an uncontested divorce

Litigation Paralegal (June 2018 – August 2020)
- Led paralegal teams at one arbitration and three trials (*F.T.C. v. Qualcomm*, N.D. Cal.; *Apple v. Qualcomm*, S.D. Cal.; *In re Tesla Motors*, Del. Ch.): coordinated trial preparation, prepared witness books, tracked exhibits, managed logistics

FORDHAM UNIVERSITY SCHOOL OF LAW | New York, NY
Research Assistant to Associate Professor Pamela K. Bookman (June 2021 – January 2022)
- Researched and drafted literature reviews and other memoranda on personal jurisdiction and ad hoc procedure topics
- Bluebooked, cite-checked, and filled citation gaps in draft law review articles

Volunteer Privacy Educator, Center on Law and Information Policy (Spring 2021)

U.S. ATTORNEY'S OFFICE, CIVIL DIVISION (E.D.N.Y) | New York, NY
Extern (Fall 2021)
- Drafted portions of letter briefs and prepared various research memoranda to support district-level motion practice

THE HON. GEORGE B. DANIELS, U.S. DISTRICT COURT (S.D.N.Y.) | New York, NY
Judicial Intern (Summer 2021)
- Drafted research memoranda in cases on child abduction (affirmed by the 2d Cir.), wrongful dishonor, and Title VII

DASSAULT SYSTÈMES | Waltham, MA
Global Affairs & Strategic Business Development Intern (French-speaking role) (May 2017 – May 2018)

LANGUAGES: Tagalog (native), French (fluent), Italian (intermediate), Japanese (elementary), German (elementary)
INTERESTS: learning languages, musicals, opera, biking, television, piano

LUIS MIGUEL M. DEL ROSARIO

UNOFFICIAL TRANSCRIPT
Fordham University School of Law
Cumulative G.P.A.: 3.643

Course Name	Instructor	Grade	Credits	Comments
FALL 2020 [GPA: 3.42]				
Legal Process & Quantitative Methods	Various	P	1	P/F course during 1L orientation
Criminal Law	John Pfaff	A-	3	
Civil Procedure	Pamela K. Bookman	B+	5	
Torts	Courtney Cox	B+	4	
Legal Writing & Research	Nicholas W. Haddad	IP	2	
SPRING 2021 [GPA 3.58]				
Legal Writing & Research	Nicholas W. Haddad	A	3	
Constitutional Law	Martin S. Flaherty	A	4	
Legislation & Regulation	Clare Huntington	B+	4	
Property	Zephyr Teachout	B+	4	
Contracts	Steve Thel	B+	4	
FALL 2021 [GPA: 3.78]				
Evidence	Daniel J. Capra	A	4	
Externship: Government Civil Litigation Seminar	Artemis Lekakis & John Vagelatos	B+	2	
Externship: Government Civil Litigation Fieldwork	[Supervisor] Sean Greene-Delgado	P	2	Placement: U.S. Attorney's Office, Civil Division (E.D.N.Y.)
International Arbitration Practicum	Ellen-Louise Moens	P	2	Course accompanying membership on the Vis Int'l Commercial Arbitration Moot competition team
Independent Study	[Advisor] Olivier Sylvain	CR	2	Courses accompanying my *Fordham Law Review* Note
Writing Requirement		S	0	
SPRING 2022 [GPA: 4.10]				
Corporations	Caroline M. Gentile	A	4	
Information Privacy Law	Ari E. Waldman	A+	3	
Professional Responsibility & The Legal Profession	Atinuke Adediran	A	3	
Advanced International Arbitration Practicum	Ellen-Louise Moens	P	2	Course accompanying membership on the Vis Int'l Commercial Arbitration Moot competition team

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Course Name	Instructor	Grade	Credits	Comments
FALL 2022 [GPA: 3.639]				
Federal Courts	Thomas H. Lee	A-	4	
Criminal Procedure: Investigative	Deborah W. Denno	A-	3	
Fundamental Lawyering Skills	Leonard Noisette	B+	3	
Appellate Advocacy and Civil Rights	Hon. Denny Chin	A	1	
Appellate Advocacy and Civil Rights Experiential		A	1	Experiential credit for Appellate Advocacy and Civil Rights
***Law Review* Editors**	Aditi Bagchi	CR	2	Course accompanying membership on the *Law Review* board of edtors
SPRING 2023 [GPA: 3.515]				
Scientific Evidence	Maggie Wittlin	A-	2	
Accounting for Lawyers	Martin Gelter	B+	2	
Accounting Experiential Skills		B+	1	Experiential credit for Accounting for Lawyers
Upper Class Legal Writing Workshop	Ilene Strauss	A-	2	
Asian Americans and the Law	Hon. Denny Chin & Thomas H. Lee	A-	2	
Art of In-House Counsel	Theresa Mohan	B+	2	
***Law Review* Editors**	Aditi Bagchi	CR	2	Course accompanying membership on the *Law Review* board of edtors

Fordham University School of Law
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May 09, 2023

The Honorable Kiyo Matsumoto
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, NY 11201-1818

Dear Judge Matsumoto:

It is my pleasure to write this letter in support of Luis del Rosario's application for a clerkship in your chambers. I have known Luis since the fall of 2020; he has been my student and my research assistant—a position in which he excelled beyond measure. Luis is a dedicated law student and talented soon-to-be lawyer. Luis is also calm and thoughtful; he is interested in a wide variety of legal and non-legal issues. I am confident that he would be an exceptional clerk and a wonderful addition to any chambers. I recommend him with enthusiasm and without hesitation.

I first met Luis online. It was the fall of 2020, a challenging time to begin law school, and he was a 1L in my Zoom Civil Procedure class. It seems hard to believe that we all got to know each other well over Zoom, but the class formed a strong bond (helped perhaps in part by the fact that they had one in-person class). Even on Zoom, Luis stood out as a dedicated and thoughtful student. In class, he was attentive and inquisitive. His answers were usually right on target, and when they weren't, he was quick to recognize and learn from mistakes. He didn't hesitate to ask thoughtful questions, often cutting right to the heart of what we were studying. He often lingered on the Zoom after class was over, patiently waiting his turn, and then would ask probing questions about both practical and theoretical civil procedure puzzles, sometimes informed by his extensive experience as a paralegal at Cravath before law school.

Among a very strong class, Luis excelled on the exam. He adeptly navigated the ins and outs of tricky procedural doctrines, analyzing the facts and comparing them to the cases we'd read with close attention to the details that matter. His exam showcased exemplary legal reasoning and writing skills.

I was thrilled when Luis applied to be my research assistant and I immediately responded that he was hired, even before all the applications had been submitted. Luis provided exceptional legal research and close editing on several projects, consistently meeting deadlines and diligently communicating both with me and with other RAs about research and collaboration issues as they arose. For one project, I asked Luis to help fill in several gaps in the rough draft of a paper as well as format and fill in footnotes. It was a task that had the potential to seem thankless and mundane. But Luis not only rose to the occasion, but he took the tasks so seriously that he greatly improved the paper.

My co-author described Luis as follows: "The best research assistants are not the ones who follow instructions to a T but those who understand the goals and needs of a project and proactively work to make it better. That describes Luis. Although our project had many moving parts, he understood perfectly what we were seeking to show and had an uncanny ability to unearth sources that would be useful to our project. In close to a decade of teaching, he is among the very strongest research assistants with whom I've ever worked." I could not agree more.

When Luis became Editor-in-Chief of the Fordham Law Review, he reasonably resigned from his position as my research assistant. Since then, he has continued to excel, both in running the Law Review and in other pursuits, including moot court. It is a pleasure to watch Luis soar. I strongly believe that his positive and entrepreneurial approach, his exceptional research and writing abilities, his diligence and responsibility, and his extensive practical and managerial experience would make Luis a fantastic addition to your chambers. Please feel free to contact me if I can be of any further assistance.

Yours sincerely,

Pamela Bookman

Pamela Bookman - pbookman@fordham.edu

May 06, 2023

The Honorable Kiyo Matsumoto
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, NY 11201-1818

Dear Judge Matsumoto:

Luis del Rosario, a second year at Fordham Law School, asked me to write a letter of recommendation in support of his application for a clerkship in your chambers. I write it with pleasure; I recommend him to you wholeheartedly.

I met Luis by email in July 2021 when he emailed me about a paper that he wanted to write on the ways in which emergent data protection law in the United States relies on or otherwise resembles property law. The independent study paper projects that I supervise tend to be with students who have taken one of my courses. Luis is the rare exception. (He contacted me after consulting with peers at the Law Review, where I have supervised dozens of papers on information law and policy issues.) Even as the paper idea was at its infancy when he contacted me, I was impressed by his care, maturity, and confidence. He also knew what he wanted the paper to accomplish; his aim was to relate the treatment under law of intangible goods like corporate stocks, for example, to emergent information assets like personal data and non- fungible tokens. Of course, he had not yet resolved how or whether property norms would always help, but, he observed at this early stage, state-led efforts to protect consumer privacy were suggestive. Given the intelligence with which Luis came to the topic, even before starting his research in earnest, it was easy for me to agree to supervise the project.

I'm glad that I did. Luis wrote a very strong paper: On the Propertization of Data and the Harmonization Imperative. In it, he argues that something that closely resembles the bundle of rights that people enjoy in property would best prevent and redress privacy violations and other data harms. It shows that, in varying ways, the European Union's General Data Protection Regulation as well as relatively new state privacy laws in Illinois, California, Virginia, and Colorado incorporate the property-like rights to exclusion, alienability, portability, deletion, and related civil enforcement remedies. These individual rights, he argues, help to protect against and redress harms that arise in complex social relationships and settings because they delimit each person's preferences for how data is to be accessed or used by other parties. Luis concedes that the notice necessary to set out the scope of protection may, at times, slow the free flow of information. But this friction is the very purpose of effective privacy laws; they require companies to attend to the ways in which they administer consumers' personal data.

The trouble in these recent developments in the EU and the states, the paper warns, is in the disparate ways in which the various jurisdictions have defined the property interests. Thus, he proposes a harmonized approach that incorporates the best of these bundle of rights. For him, these are the rights to possess, exclude, and alienate.

On the Propertization of Data and the Harmonization Imperative showcases Luis' strong analytical skills (in his account of the state laws) and ability to synthesize disparate sources (statutes from different states and legal theory) into a unified concept or theme (right to exclusion, alienability, etc.). I am struck in particular with the way in which the paper parses state laws (i.e., the language on which the drafters of those various laws relied) to produce a single coherent taxonomy of protections. To be sure, Luis is not the first to write about the property concept in the privacy setting. Scholars since at least the 1990s have been musing about the utility of property to explain privacy. And many have expressed serious reservations, particularly since most consumers today do not understand or cannot accurately value the downstream uses of the information that they "sell" or otherwise share with companies. But, here, Luis proposes a workable federal solution that is positive, pragmatic, and very much of the time.

As I have gotten to know more about Luis, I have learned that this approach reflects his temperament as a student, writer, and researcher. He is methodical, creative, and constructive. This is presumably also what his peers have seen in him as well, given that they elected to name him the Law Review's Editor-in-Chief for 2022-2023.

I recommend Luis to you without hesitation. I am sure that he will be an asset in your chambers, and to all of his employers after he graduates. If you have any questions about my recommendation, please do not hesitate to contact me at sylvain@law.fordham.edu or (646) 312- 8222.

Sincerely,

Olivier Sylvain
Professor of Law

Olivier Sylvain - sylvain@law.fordham.edu - 646-312-8222

May 06, 2023

The Honorable Kiyo Matsumoto
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East, Room 905 S
Brooklyn, NY 11201-1818

Dear Judge Matsumoto:

I write in enthusiastic support of Luis del Rosario's application to serve as your law clerk. It was my great fortune to have Luis as a student in my first-year legal writing class at Fordham. Luis possesses a wonderful and rare combination of keen intelligence, maturity, humility, and exceedingly good judgment, and I recommend him without reservation.

Luis writes in crisp, engrossing prose, and presents his analysis clearly and in a sophisticated manner. Indeed, his writing assignments consistently presented complicated issues in a manner that surpassed the work of many experienced litigation associates with whom I have practiced. And more, Luis truly distinguished himself from his peers by taking a genuine interest in the subjects about which he wrote. Although the course material consisted of hypotheticals, Luis never approached the problems as "assignments." Instead, he owned his work by mastering the underlying facts and presenting a just legal result under the provided circumstances. For these reasons and more, I nominated Luis to receive the 2021 Fordham Legal Writing Award (presented to 1L students for scholastic excellence in Legal Writing).

In class, Luis enriched our discussions with searching comments and questions, often playing a pivotal role in driving class discussion—a particularly impressive feat given that I conducted our class virtually last year. He also is a superb speaker. During oral argument, he demonstrated tremendous poise, answering questions clearly and directly. It therefore was hardly surprising that Luis not only received the highest grade in my class, but also recently became Editor-in- Chief of the Fordham Law Review.

Aside from his stand-out writing and analytical skills, Luis is a team player extraordinaire, always willing to go out of his way to help a classmate work through a challenging concept. Among the young professionals with whom I have worked, Luis not only stands out as one of the brightest, but also for his integrity and judgment, eagerness to solve even the most challenging problems, flawless work product, and respect for those around him.

As a former Court of Appeals and District Court law clerk, I know how much chambers needs a steadfast, efficient, and talented team. I have no doubt that Luis will be an outstanding law clerk—insightful, productive, a team-player, and a joy to have in your Chambers.

I would love to speak with you more about Luis. Please do not hesitate to contact me at (917) 755-0087.

Respectfully yours,

Nicholas W. Haddad
Adjunct Professor of Law

Haddad Nicholas - haddadnw@gmail.com