



VIRGINIA LAW WEEKLY

2017, 2018, & 2019 ABA Law Student Division Best Newspaper Award-Winner

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Club Spotlight: National Lawyers Guild

Michael Berdan '22
Staff Editor

When protests for racial justice broke out across the nation after the lynching of George Floyd, lawyers and law students played a critical supporting role in protecting the rights to protest and public action. Lawyers also assisted in organizing and educating. Now, going on five months later, as this uprising continues to surge and resurge in various parts of the United States, protestors and activists are too often restricted, targeted, and arrested, and the glaring need for support from the legal community has not waned.

National Lawyers Guild (NLG), established in 1937, is one of the longest-tenured groups that organizes law students to lend support in moments like these. We are best known for the neon-green hats worn by our Legal Observers, who are seemingly omnipresent at the front lines of protest actions. Legal Observers do exactly that: observe. They keep track of the actions of protestors and law enforcement agents, particularly who is arrested, when, where, and under what circumstances. That way, each individual can be connected with bail and defense resources as quickly as possible.

NLG at UVA provides Legal Observer training to prepare students to serve under NLG of Central Virginia. We also present events and discussions around issues of protest, social justice, racial justice, immigrant justice, housing justice, and education. During the pandemic, NLG at UVA has used its voice, resources, and student activism in support of movements to protect the housing of vulnerable populations and to release detainees from the Farmville ICE detention center.

Last year, NLG sponsored a panel at PILA's Shaping Justice conference, called Technology and the Criminalization of Sex Work, which gathered academics and sex worker activists to discuss the intersection of technology, surveillance, freedom, and sex work, and the movement for decriminalization. NLG will also be sponsoring a panel this year, on a topic to be announced later in the year. Last November, NLG also presented—with the sup-

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Supreme Court Summer 2020 Round-Up

Experts Break Down Major Decisions



Pictured: Decisions by the Supreme Court this term are likely to cast shadows over major areas of policy for the federal government. Photo Courtesy of Getty Images/Stockphoto.

Dana Lake '23
Guest Writer

Of the sixty-three cases decided by the Supreme Court so far this term, this summer's decisions have contained some of the heaviest hitters. The major cases were broken down in the Federalist Society's Supreme Court Summer Round-Up, which turned out to be one of the most thought-provoking events thus far this semester. Expertly hosted by Vice President for Speakers Chloe Knox '22 and delivered by Professor Julia Mahoney, Professor Dan Ortiz, and Supreme Court litigator Jeffrey Harris, the Zoom recording proceeded with only one freeze frame and less than ten seconds of someone speaking without unmuting themselves. The recorded session is available through the Federalist Society and this editor encourages you to watch it for yourself. If you are short on time, check out the highlights:

Most Underrated Decision: *Maine Community Health Options v. United States*

Professor Mahoney foresees major ramifications stemming from this decision in the coming years. The Affordable Care Act created risk corridors for insurers, limiting both the losses and gains an insurance company could expect from a particular healthcare plan. The House of Representatives turned over in 2014 and Republicans refused to appropriate money for the deal, resulting in several insurers going bankrupt. The Supreme Court ruled that the United

States has an obligation to pay its commitments, and the insurers have a right to seek damages. With the national debt exceeding the US GDP for the first time since World War II, chances are high we will see similar debates over government obligations to pay in the near future.

Most Surprising Decision: *McGirt v. Oklahoma*

Professor Ortiz highlighted this case for the insight it provides into the mind of Justice Neil Gorsuch. Joined by a liberal majority, Justice Gorsuch explained in his opinion that because Congress never formally disestablished the Native American reservation that covers much of Oklahoma, crimes committed by Native American tribal citizens on those lands must be brought in federal court rather than state court. Justice Gorsuch's advocacy for Native American rights in the face of the major impact this ruling has on thousands of already tried cases (and the disapproval of his fellow conservatives) was surprising for most people, who forgot Justice Gorsuch is the only true Westerner on the Court.

Most Recommended Opinion: *Chiafalo v. Washington*

Professor Ortiz assured us that if you are going to read an opinion, it might as well be written by Justice Elena Kagan. Her inimitable writing style and penchant for throwing in pop culture references make her opinions an engaging read even when address-


ing mundane topics. With this opinion, Justice Kagan dove straight into the hot topic of faithless electors. Just in time for this November, the majority found states do indeed have the right to punish members of the Electoral College who do not vote for the candidate that won their state's popular vote. Though faithless electors have yet to sway an election, increased scrutiny of the Electoral College in recent cycles has created a real demand for accountability.


The Court's summer decisions were historic not only for their content, but also for their delivery. With COVID-19 forcing the Court to jump head-first into the 21st century, the public was able to enjoy live-streamed audio arguments for the first time. That brought the joys of unmuted toilet flushes (slate.com points the finger toward Justice Breyer, but listen to the audio of *Barr v. American Association of Political Consultants* for yourself) and unprecedented involvement from Justice Clarence Thomas.


Greater public access to this year's decisions has led to greater interest in the tantalizingly named "shadow docket." Rarely making the front page, the shadow docket refers only to cases the Court submits orders on without taking oral arguments and usually without submitting opinions. In keeping to time, Supreme Court litigator Harris had only a

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around north grounds


 Thumbs up to the University-provided hand sanitizer that is just gelified tequila, as far as ANG can tell by smell...and taste. Cheers!


 Hurrah for being less than fifty days out from Election Day. Even though ANG is not on the ballot, vote!

 Thumbs up to people who adopted animals during quarantine. Unfortunately, neither Ivy Gardens nor the Law School will accept the WB snake as ANG's emotional support animal. Litigation is pending.

 Thumbs down to the SBA Food Pantry program. ANG worked for years at perfecting how to scrounge for free food and doesn't appreciate hand-outs to all of the new snowflakes.

 Thumbs up to the new SBA events "email" for keeping things simple. Why spend time on a nicely formatted email when a GoogleDoc will suffice? ANG welcomes SBA to ANG's level of indolence.

 Thumbs down to students having their Ivy League banners in the background of their Zoom class. ANG is unimpressed by braggarts and unnecessary fluff.

 Thumbs up to the professors who are already a week behind because the classes are ten minutes shorter. ANG empathizes because ANG also lacks time management skills. ANG also appreciates having a real reason to not do ANG's readings instead of just sheer laziness.

 Thumbs sideways to Dandelion not taking place this fall. While ANG will miss boogieing the one section that does a singing skit, ANG will still be getting drunk at The Park and shouting bad advice to any 1L in sight, so ANG's weekend plans are still the same.

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moment to touch on some of these cases. Shadow docket decisions from this summer included: clearing the way for the resumption of federal executions, allowing military construction funds to be diverted to construction of the border wall, and preventing thousands of felons in Florida from voting in their state primary for failure to pay fines and fees.

The session included a deeper discussion of other noteworthy cases from the summer. Professor Mahoney started off by providing her insights into cases involving the Affordable Care Act, President Trump's personal finances, and continued efforts by conservative state leadership to limit access to abortion. Professor Ortiz followed up with cases on contraceptives, faithless electors, and Native American rights; Mr. Harris closed out the evening with employment discrimination, DACA, and conflicts at the Office of Information and Regulatory Affairs.

Capped off with an insightful Q&A session that saw the speakers jumping straight in to asking each other questions, the Supreme Court Summer Round-Up was overall a very good use of a precious seventy-five minutes this fall semester.

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NLG

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port of Women of Color, IRAP at UVA Law, and LALO—an event addressing the mobilization of ICE agents in Central Virginia and the impacts on the community. Activists representing several dimensions of the problem convened to share stories and ideas, and galvanize support for the immigrant community of our region.

The mission statement laid out in the Preamble of the NLG Constitution guides our work: "To use law for the people, uniting lawyers, law students, legal workers, and jailhouse lawyers to function as an effective force in the service of the people by valuing human rights and ecosystems over property interests." We have seen the tension between human rights and property rights very clearly over the past few months. Some of you may be among those law students who jumped in to help, in one way or another. Some of you wanted to, and didn't know how—we invite you to join us in the National Lawyers Guild.

In Solidarity,
The Executive Board of NLG at UVA

Ida Abhari - Michael Berdan - Kunchok Dolma - Dominique Fenton - Emily Hockett - Zach Kuster - Nooreen Reza - Eliza Schultz - Wes Williams

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You Buy Cantaloupe? That's a Trash Fruit!

A Zoom Lunch with Professor Cathy Hwang

Last Tuesday, Marlyse Vieira '22, Christina Luk '21, and I logged onto Zoom for

Leah Deskins '21
Professor Liaison Editor



lunch with Professor Cathy Hwang. Professor Hwang is a new face around the (virtual) Law School, and she has a light-up picture of the Death Star in the room where she lectures for our Corporations class, so I figured she might be a good bet for our first professor interview of the 2020-2021 academic year. When she agreed to let the *Law Weekly* interview her on Zoom and consented to some eating on camera, I knew we were in for a treat.

Professor Hwang joined UVA Law all the way from the University of Utah in Salt Lake City. Prior to teaching in Utah, she was an academic fellow at Stanford, but she wasn't always an academic. After completing her legal education at the University of Chicago, she worked at Skadden for several years before making the transition to academia. When asked what led her to teaching, Professor Hwang explained that, while at Skadden, she found that she really enjoyed mentoring her more junior colleagues and, at the same

time, did not see herself staying to become a partner,¹ so she decided to head down the academic path. This semester, she's teaching Corporations, and, next semester, she'll be teaching Deals, as well as Mergers and Acquisitions.

Marlyse, Christina, and my lunch conversation covered many of the usual academic and professional topics. We learned that Professor Hwang is working on an article about the collaborative process of establishing corporate intent and how contracts reflect numerous interests in a corporation, not just those of the two head honchos at the top making the deal. She explained how she prepares for class and

1 She would've made a great partner, though.



Pictured: Professor Cathy Hwang has become an immediate hit with students. Photo Courtesy of Professor Hwang.

reflected on how much she likes the freedom of being a professor, because she gets to structure her time as she pleases. As a new professor, Professor Hwang feels a great deal of kinship with students who are also starting their careers. She offered this advice:

"Right now, we're each on the cusp of the rest of our careers. It's time to start thinking about what's important to each of us in life, how we want our lives to look, and how we can maximize our happiness."

Professor Hwang espoused the value of trying a personal values card sort if we're having trouble figuring out what's important to us.

We also ventured into other fruitful topics. Professor Hwang does not like grapes. She's pro-watermelon, and anti-honeydew and cantaloupe. We learned that she played clarinet in her high school marching band and took flute lessons at 7:30 in the morning while she worked at Skadden. In her spare time, she enjoys hunting for Clorox wipes, skiing, watching the Tour de France, and playing Animal Crossing. She also enjoys shoveling snow. In response to a question about what

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Love in the Time of Corona: Noah and Bryn

Although it's been nearly six months, many aspects of our "new normal" contin-

Ben Stievetar '22
Events Editor



ue to present challenges that can be strange and frustrating. From sitting next to someone in class to hitting *Bar Review*, things that once seemed like a given feel far away, or at least vastly different behind a mask and six feet apart. We've been forced to connect more creatively in our professional, personal, and—we'll say it, you smokeshows, you—romantic lives. Indeed, like a professor explaining the holding five minutes past the bell, love continues on, so we at the *Law Weekly* thought it would be intriguing, pleasantly distracting, and (dare we say it) heartwarming to hear how couples and singles alike are handling romance in light of all these changes. You've heard of Love in the Time of Cholera, but get ready for Love in the Time of Corona.

This week's guests are Noah Mussmon '22 and Bryn Maxson, a graduate student working toward her master's degree in kinesiology at UVA.

Hi Noah and Bryn! Welcome to *Love in the Time of Corona*. Let's start with some back-

ground—how did you two get together?

Bryn: Hi Ben! We met on Bumble in the spring of 2019 while both here at UVA for undergrad. We messaged each other, played two-truths-and-a-lie, and the rest is history.

What's the coronavirus situation been like for you two?

Noah: We initially stayed here in Charlottesville when things went remote in the spring and were basically living together. I had a summer internship up in NOVA and Bryn also came with me up there. We've spent literally every day together for the past six months, which sounds like a lot on paper, but has been wonderful. It's brought us much closer and showed us we can live with each other through the good and bad.

Growing closer together seems to be a common silver lining for a lot of couples I've interviewed. Any other specific silver linings?

Noah: We got a kitten named Pelapi!

Bryn: We also watched a TON of movies together, a disproportionate amount of which star Reese Witherspoon. If anyone out there is ever wondering whether to watch her 2010 rom-com *How Do You Know*, don't.

You better hope for both our sakes that Elle Woods doesn't read this

column, Bryn. Let's do a lightning round. Describe each other in a word or phrase.

Noah: Bryn is super energetic. Even when I'm exhausted from schoolwork, all it takes is seeing her to change my entire mood.

Bryn: Thoughtful. Noah is always doing little things for me that will never fail to make my day. For instance, two weeks after our first date I mentioned to him that I was bummed out that I wouldn't be able to go home to my family's house for Easter that year. He put together an Easter basket for me and left it outside my apartment for me to find that morning.

Best Charlottesville date spot?

Noah: I'm partial to the Virginian on the Corner. We had our first date there, and it's such a staple in Charlottesville. It's got a lot of history and character, as well as great food and fun times.

Bryn: The rooftop bar at the Graduate on the Corner. There's a beautiful view of Charlottesville from it, and they make one hell of a Moscow Mule.

Spirit vegetables? (Animals are overplayed, we at the *Law Weekly* are avant-garde interviewers.)

Noah: Are potatoes a vegetable? (Starts to Google.) Actually, I don't care, Bryn's a sweet potato. She eats them constantly, and she's sweet.

Bryn: Two can play at that game. Noah's a red onion because he eats them all the time. He also has many layers.

Noah: I'm pretty sure that's a quote from *Shrek*, are we really going to put that in?

We're really going to put that in. It'll be all ogre the Law School, Noah. What do you admire most about each other?

Noah: I would say Bryn is very full of life. She brings out the best in people around her.

Bryn: I admire Noah's dedication. He can put all his energy into what needs to be done, and I'm always amazed by his motivation.

First activity you'll do or place you'll go when things return to normal?

Noah: I want to go to

a movie without worrying about that stray cough from two rows back.

Bryn: Travel! I want to go hiking in Utah, I think.

Lightning round over! Paint me a word picture of your favorite memory as a couple.

Answer: Early on in our relationship we went out to Gap View Ranch & Kennel in Harrisonburg, Virginia. It's a golden retriever breeder with dozens of dogs and puppies that you can go and play with. That alone was magical, but afterward we explored Harrisonburg and ended up finding this empty arcade where we just played games with each other for the rest of the afternoon. It was such a pure and fun day and one of the first full days we had spent together as a

LOVE page 6



Pictured: The beautiful couple taking a quick break from hiking to pose for an adorable picture. Photo Courtesy of Noah Mussmon '22.

Tweedledee and Tweedledum: COVID-19 Reporting Procedures

In Defense of Noncompliance Reporting

With contributions from Michael Berdan '22

This summer, the University sent a survey to graduate-

Leah Deskins '21
Professor Liaison Editor



level students asking, among other things, whether we would be willing to encourage compliance with public health measures taken to prevent the spread of COVID-19 in the event that we witnessed behavior that did not comply with those measures. Admittedly, this question was probably geared toward graduate students serving as teaching assistants and in positions commanding some authority over undergraduates. I nonetheless worried that the Law School would potentially put a burden on students to police compliance with the University's public health measures. It is one thing to command one 1L to wear a mask, but that huge group of students (1Ls or otherwise)? They're not going to listen.

Naturally, I was relieved to hear about the University's COVID-19 noncompliance reporting tool. Administrators would deal with non-compliant students. Great. However, I recently found

out that not everyone shares my view. Specifically, not everyone shares my view that students shouldn't have to confront blatantly noncompliant students before potentially submitting a noncompliance report.¹

I respect that others may not see the world the same way I do. Healthy debate is a good thing—and if you, one person, feel comfortable going up to a group of twenty-five unmasked, not socially-distant strangers (or not strangers, they could be people you know, too) hanging out and blatantly ignoring the rules, and if you feel comfortable asking them to kindly comply with the University's public health measures, that's wonderful. But not every student is comfortable with that. And think about this scenario: If students are engaging in that kind of behavior, they know they're not complying with the University's public health measures, and they are al-

1 The University has indicated that it would like students to encourage other students to comply with the public health measures in the event that they see their peers behaving in ways that are non-compliant. However, the University does not require students to confront their peers about noncompliance.

ready aware of the possibility that they could be reported. Given the extensive and repeated warnings, guidance, and explanation we have been given from University and Law School administrators—not to mention having lived in this pandemic world for the past six months and having common sense—we can all recognize when behavior is clearly, obviously wrong. I'm not talking about close calls: questions of mask material, five-and-a-half feet, or sixteen people at a gathering. I'm talking about large groups of people, without masks, within arm's reach. This is no-brainer noncompliance.

I've tried to be safe these last six months because I want to protect the people I care about and my community more broadly, and I don't want to contribute to any further dragging out that this pandemic has up its sleeve. And I don't think that we all have to be perfect in practicing good public health habits. We're all human, after all, and accidents happen. But as adults, we should be accountable to ourselves and our colleagues to follow the most essential rules the best we can. If you feel comfortable going up to any noncompliant folks you see and asking them to adhere to University rules, do

so. If you don't, be mindful of what they're doing that's noncompliant, give the benefit of the doubt as much as is reasonable, and make an assessment for yourself about whether you want to submit a noncompliance report. The University is doing the right thing by allowing us to choose how we encourage others to keep our community safe and healthy, and any well-intentioned efforts by students toward that end should be supported.

Don't Be a Snitch

Throughout this column, I use the term "snitch" to refer to people who report

Drew Calamaro '21
Satire Editor



others on the online portal for breaking the university's COVID-19 rules. If you report others through this portal, you are, in fact, a snitch. Either own the fact that you are a snitch, or don't snitch on people, and you won't be called one.²

1. **Direct confrontation will always provide more utility to the community**

2 Judas owned it. That's why Dante put him in the literal mouth of Satan in the Ninth Circle of Hell in the *Inferno*.

than a drawn-out process of reporting to the UJC.

From a utilitarian standpoint, reporting people's actions to the UJC has zero effect on COVID-19 spread. If the behavior is that bad, then put a mask on, and confront the people transgressing on what you believe to be the rules. Why do this, you ask? Well, for one, you can probably do so safely, since most of the time you are likely reporting the behavior that is directly in front of you. Wearing a mask and standing at a safe distance doesn't mean you can't shout. Furthermore, if you think that the behavior is so terrible that it's worth reporting, maybe you should try to stop it right then and there. Stop the activity, and you stop the spread; that means one less way for you to contract COVID-19.

Contrast this with reporting to the UJC. You are relying on a largely undergrad-run organization to read your report and follow up post-hoc. The people you have reported have already gone into their respective communities, where they have likely spread COVID-19 to the people they are living with. While you could have helped #stopthespread right

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The Humble Bookshelf; or, How to Give Others the False Impression that You're an Interesting Person

Every respectable adult knows that obvious displays of material goods are

Will Palmer '21
Special Projects Editor



the best way to make a good impression on visitors. However, one of the best available options for this most noble of pursuits has been increasingly overlooked in the modern day: I speak, of course, of the bookshelf. Set aside, for a moment, your plundered sarcophagi and eerily lifelike porcelain dolls and look, instead, to what you can accomplish with but a few pieces of wood and some carefully selected books.¹

Your bookshelf, once acquired, should be placed in an easy line of sight to the entrance of your domicile, and filled with a variety of impressive tomes. Bigger books tend to be better, unless the spine looks stupid, in which case get something else.

Now, before we begin, you should keep in mind that my Inherent Bookshelf Space (IBS) is effectively halved by the book-shredding presence

1 Darker woods are superior when it comes to bookshelves. Walnut, for example, is classier than Oak, and hides beer stains better.

of my roommate, Brutus (a chinchilla who I'm *reasonably* sure is the reincarnation of a Sumerian demon prince). You may have more or less IBS than I do depending on your living situation and other factors, so be sure to assess it before making any big decisions.

Let's get to the books you should choose. Make sure you have something on your shelf that shows how independent and self-sufficient you are. If you want to be subtle, yet also completely unoriginal, get that book about the guy who died in the woods (I forget the title). If you want to make a statement, go with something heftier like *Walden*. Have I read it? Hell no! Does it matter? Not if I skim the Wikipedia page first.

It's key to have a few books on your shelf that demonstrate martial prowess. Everyone and their grandma has a pocket version of *The Art of War* lying around, but have you seen Clausewitz's *Vom Kriege*? That s*** is long. It also shows that you understand basic cavalry maneuvers and key methods of resupply in the field.

You should have several books that show off what I call "everyday skills." Cookbooks fit this description, but they tend to be tall and wide (and thus difficult to work with when it comes to

your IBS). You could go for something objectively awful like *Zen and the Art of Motorcycle Maintenance*, but I would recommend books more along the lines of Mark Gumaer's excellent *Fundamentals of Gold Panning or Monarchs of the Fields: The Story of the Combine Harvester* (written by the Faye Reineberg Holt).

Classic novels are a cornerstone of any dedicated poseur's bookshelf and might be the easiest section to fill in. Just pick books that got turned into big-budget movies (preferably ones that you have seen). Consider *The Last of the Mohicans*. I, for one, would rather watch Daniel Day-Lewis sprint through the woods for 112 minutes than read James Fenimore Cooper's belligerently detailed descriptions of said woods for 402 pages. Spoiler alert: There's just one Mohican left at the end. If you're looking for something more cheerful and optimistic, you could always try Cormac McCarthy's hilariously gonzo travelogue *The Road*.

It's important to imply that you are a spiritually inquisitive person, and the books you put on your shelf can help support this devious façade. Dante's *Inferno* looks pretty titillating, judging from the illustrations, and *The Da Vinci Code*

pointed out how nefarious the Vatican was *way* before Mark Ruffalo ever did. If you're trying to get *really* weird, you could proudly display a well-worn copy of *D'Aulaires' Book of Greek Myths* (that Zeus guy was a kinky little minx, let me tell you that).

To complete your shelf, you may need to resort to what I refer to as "filler books;" larger-size tomes with impressive-looking spines that deal with subject matter you can bulls*** about for thirty to forty-five seconds before abruptly changing the subject. These will vary depending on your IBS and personal knowledge, but I'll present a couple examples from my own shelf (and the reasons for their inclusion) for your reference. Since I am a genuinely rude person and have a face made for radio (as well

as an above-average fondness for nicotine and whiskey), *Churchill, Taken from the Diaries of Lord Moran* is easy enough for me to relate to and thus spitball about. I watched both seasons of HBO's *Rome* while moderately drunk, so I feel pretty confident that I can carry on a short conversation about Mary Beard's *S.P.Q.R.* ("Rome? Yeah, that place was pretty stabby"). You get the idea.

Remember: The most important thing to keep in mind when filling a bookshelf isn't "having fun" or "educating yourself," it's deceiving other people into thinking that you may, in fact, be an interesting individual with worthwhile opinions.

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Pictured: This is an appropriate bookshelf to show of your immense intellect. Photo Courtesy of Will Palmer '21.

LAW WEEKLY FEATURE: Court of Petty Appeals

The Court of Petty Appeals is the highest appellate jurisdiction court at UVA Law. The Court has the power to review any and all decisions, conflicts, and disputes that arise involving, either directly, indirectly, or tangentially, the Law School or its students. The Court comprises four associate justices and one Chief Justice. Opinions shall be released periodically and only in the official court reporter: the Virginia Law Weekly. Please email a brief summary of any and all conflicts to cl3eh@virginia.edu

Students v. Labor, Generally 73 U.Va 4 (2020)

PICKETT, J., delivered the opinion of the Court, in which McDERMOTT, CALAMARO, JONES, SCHMID, BERDAN, J., and LUK, C.J. join. TONSETH, J. filed a dissenting opinion which QUERNER, J. joined.

JUSTICE PICKETT delivered the opinion of the Court.

I. Introduction

As a 3L, there are few issues that fire me up enough to make me actually do something. Just as an object in motion will stay in motion unless acted upon by an outside force, a 3L at rest will stay at rest until acted upon by severe injustice. And it is such an injustice that forces me to return to the bench for the first time since I sued the global pandemic that persists to this day.¹ Today I descend from the Ivory Tower™ to place an injunction on UVA Law students performing labor on Labor Day.

II. Facts

It was Friday, September 4, 2020 and Jeg McJones was looking forward to the weekend. She was excited about the extra day off, though she was disappointed that she wasn't going to be able to wear white anymore (it is her favorite color).² Jeg was talking with another law student, Christina, about the long weekend when Christina informed her that there was no long weekend—we don't get Labor Day off at UVA Law.

¹ Of note is that coronavirus is currently acting in defiance of an injunction imposed by this Court in *Coronavirus (La Cerveza Mas Fina) v. Coronavirus (El Virus Menos Fino)*. We are waiting for you to finally perish, COVID-19.

² This is a lazy Labor Day joke, but go with it.

Jeg was shocked. How? I mean, she labors, right? Not in the traditional sense, maybe, but many would agree that sitting on her phone in the library with a book open, pretending to be productive for two hours, is, in fact, work.

Disgusted by this injustice, Jeg decided to file suit in the Court of Petty Appeals. She seeks an injunction against labor on Labor Day, which I modified to "Labor, Generally" since it sounded better.³

III. Textualist Argument

While there is no law that explicitly says workers must be

from classes. They cry at spontaneous times, running to reach the bathroom before other people see them. They scream into the endless void and they complain loudly to anyone who will listen. They press "join meeting" on their computers, and they press "leave meeting" on their computers—an endless cycle that makes them feel dead inside. These are all expenditures of effort.

Mentally, however, is where law students really expend their efforts. They maintain a willful blindness to the world around them as they try to figure out

honest, is made up entirely.⁴

I do, however, remember there being a connection between substantive due process and history. And here is some history: Labor Day has existed for a long time and yet the Law School has not celebrated it. I don't know if I can claim to be surprised given that UVA just started giving us MLK Jr. Day off last year (2019-2020) and is only now critically examining the racist legacy of Henry Malcolm Withers, the namesake of Withers Hall. Regardless, there is a history of no labor on Labor Day and that is enough for me

just have to nominate me to the Supreme Court so I can work my real magic.

V. Conclusion

I have seen enough through both my textual and SDP analysis to declare an injunction against UVA Law students performing labor on Labor Day. Instead, they must spend the day relaxing or doing something besides schoolwork. And to those who wish to use the day to get ahead, I encourage them to get a personality and/or a hobby.

TONSETH, J. dissenting, in which JUSTICE QUERNER joins.

Again, as this Court's sole remaining bastion of actual textualism and the proper administration of the judicial system, I vehemently dissent.⁵ I did not think that during my tenure on this Court I would have to work to protect the forgotten hard workers at this Law School, but here I am.

Through his analysis of substantive due process, Justice Pickett makes up an entirely new "fundamental" right.⁶ It seems mighty rich, especially from the pricey Ivory Tower he rules from, that Justice Pickett issues an injunction against labor while he pays to attend school. It is almost as though he wishes

⁵ *John Does v. Open Bathroom Doors*, 73 U.Va 2 (2020) (TONSETH, J., dissent).

⁶ But did he? Still waiting for the Supreme Court to release the full list.

"They struggle to accomplish anything given the overwhelming weight of dread that fills them anew each morning as they attempt to maneuver the new reality of life in a pandemic."

given Labor Day off, it has long been held in the Law of Common Knowledge that "there shalt be no labor on Labor Day." According to Merriam-Webster's dictionary, labor is "an expenditure of physical or mental effort especially when difficult or compulsory" (emphasis added). Since performing work for law school counts as "labor" under this definition, law students should not be forced to work or attend class on Labor Day.

Law school requires both physical and mental effort. Physically, law students expend effort in various ways. They carry massive textbooks to and

³ If I could, though, I would definitely put an injunction on all labor.

what a tort is. They struggle to accomplish anything given the overwhelming weight of the dread that fills them anew each morning as they attempt to maneuver the new reality of life in a pandemic. And perhaps most impressively of all, they manage to remain calm despite continually receiving emails talking about "strange and unusual times."

On this textualist basis alone, I would grant the plaintiff's injunction. But, there is still more to say.

IV. Substantive Due Process Right Not to Labor

I don't remember much about Con Law. That is not the fault of my professor, Dean Goluboff, but instead the fault of Con Law, which, to be quite

to declare it a right for law students.

It is worth noting that there is a larger problem with Labor Day in society writ large. If this Court had a larger jurisdiction, I would give everyone a paid day of vacation, especially those who work so hard every day just to stay afloat. I guess you will all

⁴ Spoiler alert, 1Ls.

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Faculty Quotes

R. Verkerke: "Sometimes, even stupid people should be protected against fundamentally dishonest people."

M. Gilbert: "I'm trying to remember what I learned from Miss Frizzle."

M. Schwartzman: "If you go up 29, it's like between Best Buy and Stonehenge."


M. Collins: "I teach this case first, because I understand it, and I teach the other one second, because, to this day, I still don't understand

what the hell they're talking about."

J. Harrison: "You took Civ Pro with Caleb Nelson and so you learned everything. I took Civ Pro at Yale Law School and so I learned nothing."

G. Rutherglen: "Most war criminals know we are just not happy with them."

Heard a good professor quote? Email editor@law-weekly.org



Virginia Law Weekly

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REWARDS

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1 = 10
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FREE KINDNESS WITH EVERY ORDER

COPA

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to change the adage of “hard work pays off” to “B-pluses get BigLaw jobs.” I cannot willingly stand for the grave injustice of granting special privilege to be lazy. In the wise words of T. Jeff, “It is wonderful how much may be done if we are always doing.” Do more, Justice Pickett.

In the textual argument posited by the majority, there is a major flaw. I concede that labor is performed by law students in the natural course of their education. However, the only “labor” performed on Labor Day itself is performed by either 1Ls or upperclassmen who unwisely chose not to schedule a recurring four-day weekend into their class schedule. Between “emotional distress is a harm inherent in the choice to attend law school” and 1Ls always losing, I textually find no support for the majority’s argument.⁷

It is a strange and unusual time when Justice Pickett comes down from his Ivory Tower to do the hard labor of declaring that Labor Day should be recognized as a holiday.⁸ Due to Con Law being all made up, I have a completely different yet valid argument. As such, I dissent.

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⁷ 1L *Gunners v. Everyone Else*, 324 U.Va 22 (2019)

⁸ He probably wakes up every Monday feeling like Garfield.

TWEEDLE

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there through direct intervention, you instead chose to hide behind a phone screen and report others. Whether this shows an utter lack of moral fortitude and lack of conviction in what you are actually doing, I will leave to others to judge.³ However—and I reiterate—if this behavior is so bad that you think it’s reportable, then confront it, and make a true effort to stop it before it harms people. Exposure and time matters, and if you can stop a gathering from going on longer than it should, then that is a win.

2. Punitive thought processes should not rule the day in a community.

One thing that I think many can agree on is that, despite acting stupidly, we do not want to see anyone develop COVID-19. We know that around 1 percent of individuals under the age of thirty who contract COVID-19 may also develop long-term illness as a result.⁴ We also know that COVID-19 causes

³ I am the others. I am footnote-Drew. I judge that it does.

⁴ Derek Thompson, “What Young, Healthy People Have to Fear From COVID-19,” <https://www.theatlantic.com/ideas/archive/2020/09/what-young-healthy-people-have-fear-covid-19/616087/>.

significant heart damage, which could require lifelong monitoring in anyone, even in children. Are the “rule-breakers” really so bad that they don’t deserve to be reminded of these potential health issues? The answer, of course, is no. For God’s sake, or humanity’s sake, go tell them to stop what they are doing if you think it’s that bad. Just because, in your mind, they don’t value human life, doesn’t mean you get to stop as well. You are a law student—go talk to someone, understand what is going on, get the facts, and then tell them what the rules are.

Those who choose to hide behind screens may find this to be an odd way of thinking. But there are more important things than just being morally right. There are more important things than saying to yourself, “I won’t give them the benefit of the doubt because of X.” There are real lives at stake, not just the rulebreakers’, but their roommates’, their family’s, and yours. Put the phone down, go up to them, and stop the behavior. If you love your fellow humans, do that. And have the guts to tell them in person that you’re reporting them if they don’t stop.

3. You have also broken the rules.

In the Gospel of John, the Pharisees⁵ brought a woman before Jesus who had com-

⁵ Hypocritical religious teachers.

mitted adultery. They told him, “This woman has been caught in the act of adultery. Now in the Law, Moses commanded us to stone such women. So what do you say?” Jesus took some time, bent down to write on the ground,⁶ stood back up and said, “Let he who is without sin among you be the first to throw a stone at her.” The Pharisees all left, one by one, beginning with the older ones, until Jesus was left alone with the woman. He tells her at the end that he does not condemn her, but that she should “go, and from now on sin no more.”

This dramatic scene is literally life and death. And I am sure the pro-snitching side feels the same about COVID-19. However, unless and until you report *yourself* for all of *your* violations, you should not snitch on others who you *think* may be breaking the rules. Otherwise, you are a Pharisee. Have you ridden in a car with someone you are not living with without wearing a mask? Have you had a visitor over to your apartment for more than ten minutes, and not worn a mask? Then you have broken the rules. Report yourself. Or ask someone else to report you. My point is, at some point, you, too, have broken the rules.

I have yet to find a single person who has both snitched on others and who has reported themselves for their

⁶ Probably cramming for a final.

own violations. In speaking to pro-snitches, I am struck by their lack of self-awareness. They are able to justify every “minor” violation they accrue, but when it comes to a group of people gathered outside, *that* is a big deal. So far, most of the violations that I have heard reported have been outdoor activities. Never mind the fact that you are twenty times more likely to catch coronavirus indoors than outdoors,⁷ any large outdoor group is now totally subject to snitching by people who do not believe they have broken any rules worth reporting themselves. My point with all of this is that snitching breaks down a community, it rewards nameless and faceless reporting, and doesn’t actually stop bad behavior at the root. It simply drives it into the shadows. Have a backbone, be utterly and completely morally righteous, and go stop it where you see it. Otherwise, just carry on with your life, stop worrying about others’ behavior, and start worrying about yourself.

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⁷ Hiroshi Nishiura et al., “Closed environments facilitate secondary transmission of coronavirus disease 2019 (COVID-19),” <https://www.medrxiv.org/content/10.1101/2020.02.28.20029272v2>.

HOT BENCH



Jake Greenberg '21
Business Director of VELJ
Interviewed by Anna Brinski '23

Hi Jake! Welcome to Hot Bench! Let’s start with any easy question and have our readers get to know you better. Where are you from?

I’m from a small town called Old Tappan in the northeast corner of New Jersey.

Are you taking classes here in Charlottesville?

I’m actually in Minneapolis, Minnesota this semester. Not quite ready for the cold weather, but I have spent time here during the past two winter breaks so I am used to it.

When did you start thinking about law school?

I wasn’t set on a particular career path for some time, though law was definitely on my radar. In high school, I had really loved classes in different areas including

English, history and biology. In college, though, I really began to think about how I could apply some of my wide-ranging coursework in the social sciences, business, and environmental fields and how I could turn my social justice interests into a career. I felt that law was the best way to go about it. So, I became part of my college’s Pre-Law Society and ultimately found my fit.

What’s something you know now that you would tell yourself coming into Law School?

Fight the instinct to write out every detail to every case. That may be helpful on cold calls, but you are better off focusing on learning the essential lessons and preparing to apply those on the exam.

What kind of impact do you hope to have as a lawyer?

Going into law school, I wrote in my application about how the 2008 recession impacted my family and my community. It made housing and the economy unstable, and also made me aware of how fragile some things I take for granted are. Today, the issues are even greater, unfortunately, and I am hoping I can help by working in the affordable housing field.

What organization(s) are you most involved with, and what’s driven your investment in

them?

I am most involved with the Jewish Law Students Association and the *Virginia Environmental Law Journal*.

I have been passionate about JLSA to help continue fostering a sense of community for Jewish students at the Law School. Having attended a majority Jewish undergraduate college, Brandeis University, I felt a sense of community with others who have both shared and different experiences and perspectives, and I wanted to carry a bit of that experience to the Law School. In addition, I have been excited about the club’s work to support other religious groups, like MLSA, as they have started and been excited to plan events together.

I am also very involved with the *Virginia Environmental Law Journal*. As Business Director, I have been excited to bring more of my business background to the organization and work on social media marketing, the website, and outside printing companies. I am always excited about ways to help with organizations in ways people don’t normally consider but are necessary for helping them drive their ultimate work.

Let’s do a lightning round! Favorite mask?

I have a soft-cotton Washington, D.C. mask. I needed one while I was visiting D.C., so I ran into a CVS and got it there! I like wearing it be-

cause it makes me think of my siblings, who live in the area, and because I am looking forward to moving there next year.

Favorite place in Charlottesville?

It has to be a toss-up between the Downtown Mall and the Ragged Mountain Natural Area—both are ten minutes from my apartment and represent the mix of small city and outdoors and nature that make Charlottesville so great.

If you had to do a humblebrag, what would it be?

I can, in fact, ride my bike with no handlebars.

If you could pick one song to play in the background of your life, what would it be?

Perhaps “Starships” or “Super Bass” by Nicki Minaj. Sorry, I can’t pick one, sometimes I just need dance pop music to lift me up. Todrick Hall does a great Nicki Minaj/Disney mashup that I definitely recommend.

Where’s a place you’ve never been, but would like to go?

It would definitely have to be Argentina—Buenos Aires in particular. This is likely because of my enjoyment of Evita, and also the architecture, diverse culture, and food I have read about there.

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PROFESSOR

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she’d like to do in Charlottesville, when we’re not all cooped up at home hiding from COVID-19, she said that she hopes to visit the local wineries and breweries, see a polo match, and check out the Downtown Mall. The usual Charlottesville things.

It is very difficult to do *Law Weekly’s* lunch with Professor Hwang justice.² She’s a great conversationalist, very relatable, and quite funny. She offered customized career advice for one of us on the Zoom call and told us about how she came to think of cantaloupes as a “trash fruit.” I had been a little worried about how things would go, given that we couldn’t eat in the world-famous Stone Dining Room or one of the other outstanding restaurants in the immediate vicinity of the Law School (Sedona, anyone?), but our conversation exceeded all of my expectations. 10/10 would not give Professor Hwang a bad Yelp review. She is an excellent addition to the Law School community.

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² For those readers in her Corporations class this semester, her *Law Weekly* interview was a lot like a Zoom class with her, except that I didn’t constantly fear being cold called.

LOVE

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couple. **That sounds...golden. Let's pivot back to coronavirus. How did you keep things running smoothly with all the time spent together?**

Noah: I actually worked in person at my internship, so during working hours we had a built-in period of time to do our own thing. Otherwise, we just fell into established roles after a while for our "new life" and things pretty much ran themselves. Bryn would make the popcorn, and I would clean the pot. We got pretty in sync.

Bryn: We also went for a lot of walks in the evening after Noah came home from work! He also occasionally needed time alone after work, which we got good communicating about. Once or twice, I caught him just lying on the bed in his suit staring at the ceiling.

Now That's What I Call Law School, Noah. Last question: What is one thing you would want to say, in public, possibly in front of the whole Law School (or at least our readership), to each other?

Bryn: It's kind of cliché, but Noah has been my rock during this uncertain time. I'm particularly stressed about my own future and career, but Noah always brings me back and reminds me things will be ok. He's the

best teammate and partner I could ask for, and I'm always certain about that.

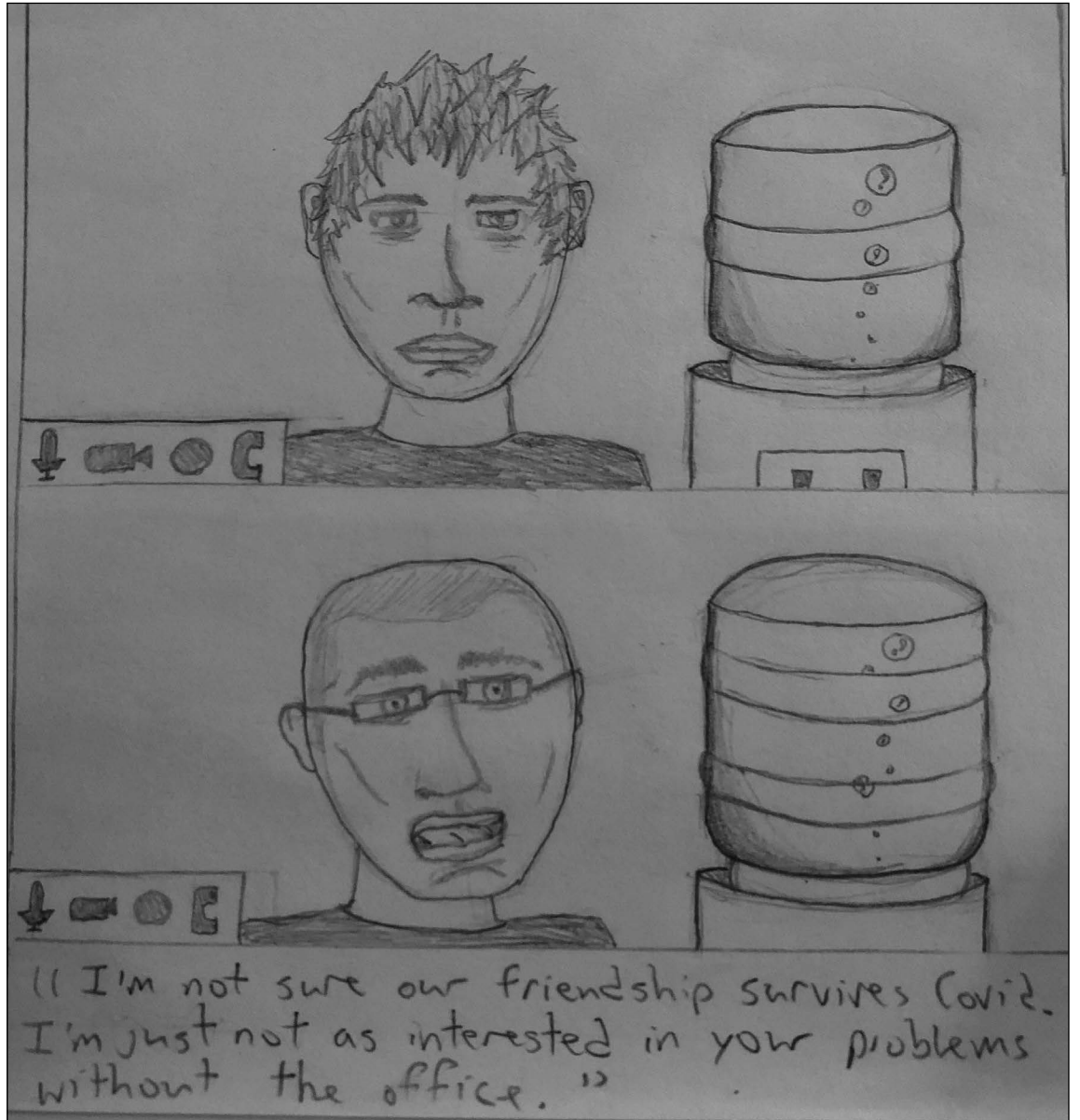
Noah: I just want to say thank you to Bryn. She's stuck with me through the highs and lows of law school so far and is always so patient and supportive even when I'm not at my best or most fun. I love you, Bryn.

I swear I'm not crying; I'm just chopping onions! Many thanks to Noah and Bryn for joining us on Love in the Time of Corona and sharing their coronavirus experience. Are you a couple that's been separated or getting creative during this social isolation period? A single who's desire to mingle has been curtailed by COVID-19? A platonic friend or member of a family who wants to share how you've been making it through this together? Love comes in all shapes and sizes, and we want to hear about it! Email bes4cf@virginia.edu if you or someone you know might like to be featured on Love in the Time of Corona.

bes4cf@virginia.edu



Cartoon By Raphael



TIME	EVENT	LOCATION	COST	FOOD?
WEDNESDAY – September 16				
16:30 – 17:30	HLA Scarce Medical Resource Allocation During Pandemic Times	Zoom	Free	☹
17:30 – 18:30	If, When, How: Lawyering for Reproductive Justice General Body Meeting	Zoom	Free	☹
18:30 – 19:30	The Domestic Violence Project and Professor Geri Greenspan: An Introduction to Domestic Violence	Zoom	Free	☹
THURSDAY – September 17				
12:30 – 13:30	Introduction to the Human Rights Program	Zoom	Free	☹
14:00 – 15:00	LIST: Algorithmic Discrimination and Fairness	Zoom	Free	☹
18:00 – 19:00	ACS Student Publications Event	Zoom	Free	☹
17:30 – 18:30	The Real Deal #2: Legal Aid and Nonprofits	Zoom	Free	☹
19:00 – 20:00	Common Law Grounds Event	Zoom	Free	☹
FRIDAY – September 18				
All Day	Special Olympics In Spirit Race with Advocates for Disability Rights	Outside	Free	☹
10:30 – 11:30	PLACE and Power: A Conversation With Emily Prifogle and Earl Swift	Zoom	Free	☹
12:00	Coffee & Careers with the GC for Planned Parenthood	Zoom	Free	☹
13:00 – 14:00	Program in Law and Public Service (LPS) Information Session	Zoom	Free	☹
15:30 – 17:00	LAMBDA, CARE, VLF, & OWLS Presents: Community Accountability	Zoom	Free	☹
SATURDAY – September 19				
12:00 – 16:00	Live Music, Wine, and Food	Keswick Vineyards	Free	Available for Purchase
MONDAY – September 21				
19:00 – 20:00	Law Weekly – Editor's Meeting	Zoom	Free	BYOP
Tuesday – September 22				
11:45 – 13:00	Law Dems Event with Rep. Spanberger	Zoom	Free	☹
17:30 – 18:30	The Real Deal #3: Prosecution	Zoom	Free	☹
18:00 – 19:00	The Future of Funding for Religious Schools	Zoom	Free	☹

THE DOCKET

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Solution

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