

## **Publications**

### **Books, Book Chapters, and Reprinted Materials:**

**America's Prophets: The Virtues of Judicial Activism in Biblical Times and Now** (forthcoming).

**Executed on a Technicality: Lethal Injustice on America's Death Row** (Beacon 2005).

**Contract Law, Texas Practice** (vol. 49 of Texas Practice series) (with C. Smyser) (Thomson-West 2005) (and annual supplements: 2006, 2007).

**Machinery of Death: The Reality of America's Death Penalty Regime** (Routledge 2002) (with M. Dow).

"*Bell v. Cone*," in **Capital Punishment Stories** (Jordan Steiker and John Blume, eds.) (forthcoming Foundation Press 2008).

"The Effect of AEDPA on Capital Post-Conviction Litigation in the Federal Courts" in **Capital Punishment Issues in the Next Generation** (forthcoming Carolina Academic Press 2007) (with E. Freedman).

"*Debs v. United States*"; "Abortion Laws and the Establishment Clause"; in **Encyclopedia of American Civil Liberties** (4 vols.) (Routledge 2006).

"Custom" (addressing the role of local custom in forming ethical outlooks); "Erroneous Convictions" (addressing methods for setting aside convictions on the basis of actual innocence); in **Ethics, Revised Edition** (3 vols.) (Salem Press 2005).

"The Music of Chance"; "Before & After"; "Body & Soul"; "A Lesson Before Dying"; "Jernigan"; "The Second Coming"; "A Thousand Acres"; "The Death of Ivan Ilych"; "The Oresteia"; "Antigone"; in **Law in Literature: An Annotated Bibliography of Law-Related Works** (E. Gemmette, ed. 1998).

The Plain Meaning of Article V, in **Responding to Imperfection**, edited by Sanford Levinson (Princeton Univ. Press 1995). <http://pup.princeton.edu/titles/5663.html>

Fictional Documentaries and Truthful Fictions: The Death Penalty in Recent American Film, reprinted in part in **Law and Popular Culture**, edited by David R. Papke, et al. (LexisNexis 2007).

When Law Bows to Politics, reprinted in part in **Philosophy of Law**, edited by Joel Feinberg and Hyman Gross, at 713-22 (5th ed. 1995).

### **Journal Publications:**

Is the “Arising Under” Jurisdictional Grant in Article III Self-Executing? (work in progress).

Judicial Activism on the Rehnquist Court: An Empirical Analysis, \_\_\_ St. John's J. Leg. Comm \_\_\_ (forthcoming 2008) (with C. Jeu and A. Coveny).

Is it Constitutional to Execute Someone Who is Innocent (and if it isn't, how can it be stopped following *House v. Bell*)?, in Symposium: The Death Penalty in America, 42 Tulsa L. Rev. 277 (2007).

The Extraordinary Execution of Billy Vickers, the Banality of Death, and the Demise of Post-Conviction Review, 13 Wm & Mary Bill of Rts. J. 521 (2005) (with Marcus, Moon, Tyler, and Wiercioch).

How Many Spouses Does the Constitution Allow One to Have?, 20 Const. Comm. 571 (2003-04) (essay-review of Sarah Barringer Gordon, **The Mormon Question**) (with J. Maldonado).

Invisible Executions: A Preliminary Analysis of Publication Rates in Death Penalty Cases in Selected Jurisdictions, 8 Tex. Forum on Civ. Libs. & Civ. Rts. 149 (2003) (with B. McNeese).

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The End of Religion (essay-review of Ronald Thiemann's **Religion in Public Life**), 16 J. Law & Relig. 877 (2001).

Can Constitutional Error be Harmless?, 2000 Utah L. Rev. 483 (with J. Rytting).

Fictional Documentaries and Truthful Fictions: The Death Penalty in Recent American Film, 17 Const. Comm. 511 (2000).

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