

Justin F. Marceau

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ACADEMIC APPOINTMENTS

University of Denver, Sturm College of Law

<i>Brooks Institute Faculty Research Scholar</i>	2019- present
<i>Animal Legal Defense Fund Professor of Law</i>	2015 - 2019
<i>Professor</i>	2015 - present
<i>Associate Professor</i>	2012 - 2015
<i>Assistant Professor</i>	2008 - 2012

Courses: Animal Law; Criminal Law; Criminal Procedure (Advanced and Basic); Habeas Corpus; Death Penalty; Constitutional Litigation.

Harvard Law School

Visiting Professor Spring 2020

Courses: Criminal Procedure; Animal Law.

EDUCATION

Harvard Law School June 2004
J.D. cum laude

Boston College May 2000
B.A. *summa cum laude*, Class rank: 1 in class of approximately 2,200
Bapst Medal recipient as the outstanding student in philosophy

PUBLICATIONS

Monographs

- BEYOND CAGES: ANIMAL PROTECTION AND CRIMINAL PUNISHMENT (Cambridge 2019).
- UNDERCOVER INVESTIGATIONS, DEMOCRACY, AND FREE SPEECH (forthcoming Cambridge 2020), with Alan Chen.

- CARCERAL LOGICS (forthcoming Cambridge 2021), with Lori Gruen.

Textbooks & Course Materials

- CASES AND MATERIALS ON THE DEATH PENALTY, FOURTH EDITION (Thomson/West) (2016) (with three co-authors).
- DEATH PENALTY IN A NUTSHELL, FIFTH EDITION (THOMSON/WEST) (2016) (with two co-authors).
- FEDERAL HABEAS CORPUS: CASES AND MATERIALS, SECOND EDITION (Carolina Academic Press 2011) (with two co-authors).

Book Chapters

- *Non-Human Habeas*, WRONGFUL CONVICTIONS AND THE DNA REVOLUTION: REFLECTIONS ON TWENTY-FIVE YEARS OF FREEING THE INNOCENT (Cambridge University Press 2017) (co-authored with Steve Wise).
- *FREE SPEECH AND FUR*, (Palgrave 2020 (forthcoming)) (co-authored with Chloe Gleichman and Kate Stanford).

Articles

- *Whom the State Kills*, HARV. C.R.-C.L. L. REV. (forthcoming 2020) (co-authored), featured in Adam Liptak's column <https://www.nytimes.com/2020/08/03/us/racial-gap-death-penalty.html>.
- *A Quantitative Analysis of Denver's Pit-Bull Ban*, Animal L. Rev. (forthcoming 2020) (co-authored).
- *Friends of Every Friendless Beast: Carceral Animal Law and the Funding of Prosecutors*, CANADIAN JOURNAL OF COMPARATIVE AND CONTEMPORARY LAW 5(1) (2019) (peer reviewed).
- *How the Animal Welfare Act Harms Animals*, 69 HASTINGS L.J. 925 (2018).
- *Developing a Taxonomy of Lies Under the First Amendment*, 89 U. COLO. L. REV. 695 (2018) (co-authored).

- *Free Speech and Democracy in the Video Age*, 116 COLUMBIA LAW REVIEW 991 (2016) (co-authored).
- *Disquieting Discretion, Race, Geography and the Colorado Death Penalty*, 92 DENV. U. L. REV. 431 (2016) (co-authored).
- *High Value Lies*, 69 VANDERBILT L. REV. 435 (2016) (co-authored).
- *Waking the Furman Giant*, 48 U.C. DAVIS L. REV. 981 (2015) (co-authored).
- *Killing for your Dog*, 83 GEO. WASH. L. REV. 943 (2015).
- *Is Guilt Dispositive? Federal Habeas After Martinez*, 55 WM. & MARY L. REV. 2071 (2014).
- *Gideon's Shadow*, 122 YALE L.J. 2482 (2013).
- *Taking Voluntariness Seriously*, 54 B.C. L. REV. 1545 (2013) (co-authored).
- *Death Eligibility in Colorado: Many are Eligible Few are Chosen*, 84 U. COLO. L. REV. 1069 (2013) (co-authored).
- *Vicarious Aggravators*, 65 FLA. L. REV. 769 (2013) (co-authored).
- *Plurality Decisions*, 45 CONN. L. REV. 933 (2013).
- *The Ring-Cycle: An Empirical Study of Remands under Ring*, 44 ARIZ. ST. L. J. 1061 (2012).
- *Embracing a New Era of Ineffective Assistance Counsel*, 14 U. PENN. J. CONST. L 1161 (2012).
- *Remedying Pretrial Ineffective Assistance*, 45 TEX. TECH. L. REV. 277 (2012).
- *Challenging the Habeas Process Rather than the Result*, 69 WASH. & LEE L. REV. 85 (2012).
- *The Facts About Ring v. Arizona*, 13 U. PENN. J. CONST. L. 529 (2011).
- *The Fourth Amendment at a Three-Way Stop*, 62 ALA. L. REV. 687 (2011).
- *Don't Forget Due Process*, 61 HASTINGS L.J. 1 (2010).
- *The Facts About Ring v. Arizona*, 13 U. PENN. J. CONST. L 529 (2010) (co-authored).
- *Lifting the Haze on Baze*, 41 ARIZ. ST. L. J. 159 (2009).
- *Un-Incorporating the Bill of Rights*, 98 J. CRIM. L. & CRIMINOLOGY 1231 (2008).

• *Deference and Doubt: The Interaction of AEDPA §§ 2254(d)(2) & (e)(1)*, 82 TUL. L. REV. 385 (2007).

Essays & Other Publications

• *The Truth Hurts: A Response to George Brauchler and Rich Orman*, 94 DENV. U. L. REV. 363 (2017).

• *Truth and Nothing but the Truth About Colorado's Death Penalty*, 93 DENV. U. L. REV. 715 (2016) (co-authored).

• *Remember Not to Forget Furman*, 100 IOWA LAW BULLETIN 117 (2015) (co-authored).

• *Ag Gag Past, Present and Future*, 38 SEATTLE U. L. REV. 1317 (2015).

• *Ag Gag Laws Are Unconstitutional*, Law360 (August 28, 2015).

• *Double Reasonableness and the Fourth Amendment*, 68 U. MIAMI L. REV. 589 (2014).

• *The Cost of Colorado's Death Penalty*, 3 DENV. CRIM. L. REV. 153 (2013) (co-authored).

• *The Colorado Counsel Conundrum: Misdemeanors, Plea Bargaining and the Right to Counsel*, 89 DENV. U. L. REV. 327 (2012).

• *The Freezing of the Fourth Amendment*, SEARCH & SEIZURE LAW REPORT (2012).

• *In Memorium: Erik Bluemel*, 87 DENV. U. L. REV. I (2009).

• *A Little Less Conversation, A Little More Action: Exploring And Forecasting The Trend Of More Frequent And Severe Prosecutions Under The FCPA*, 12 FORDHAM J. CORP. & FIN. L. 285 (2007).

• Book Review, THE MOST DEMOCRATIC BRANCH: HOW THE COURTS SERVE AMERICA, 54 JUL. FED. LAW. 43 (2007).

• *Exploring the Intersection of Effectiveness & Autonomy*, 42 CAL. W. L. REV. 183 (2006).

OTHER PROFESSIONAL EXPERIENCE

Federal Public Defender, District of Arizona
Assistant Federal Public Defender, Capital Habeas Unit

2006 - 2008

- Argued and briefed cases in federal district court, the Ninth Circuit and Sixth Circuit Court of Appeals
- Co-counsel on a case argued before the U.S. Supreme Court regarding ineffective assistance of counsel
- Presenter at the annual capital habeas corpus conference for all federal defender offices

Heller Ehrman LLP, San Francisco

2005 - 2006

Associate

- Represented *pro bono* a Liberian family in asylum proceedings; Represented clients in the firm's white collar defense and securities law practice

Ninth Circuit Court of Appeals, The Honorable Sidney R. Thomas

2004 - 2005

Law Clerk

Federal Bureau of Investigation, Washington D.C.

2002

Honors Intern

- Worked in the Civil Rights Division and the Office of General Counsel

College de la Sainte Famille, Cairo, Egypt

2000 - 2001

English Teacher (volunteer)

SELECTED PRESENTATIONS

- March 2020, Harvard Law School, Civil-Rights-Civil Liberties Law Review Symposium, *Updating the Baldus Data: Race and Executions*.
- March 2020, Harvard Law School, Animal Law Program, *Animal Rights and the Criminal Process*.
- February 2020, Boston College Law School, Faculty Colloquium, *Beyond Cages*.
- November 2019, *Carceral Logics*, hosted a workshop at the University of Denver.
- May 2019, Stanford Inn, Mendocino California, panelist and moderator, Brooks Institute Animal Law and Animal Studies Summit.

- April 2019, DePaul University College of Law, Keynote, Animal Law Symposium.
- March 2019, Lewis & Clark Law School, Animal Law Symposium.
- February 2019, University of Toronto Animal Law Speaker Series, *Beyond Cages*.
- February 2019, Faculty Colloquium University of Oklahoma College of Law, *Beyond Cages*.
- January 2019, Legislative Testimony to the Colorado Judiciary Committee.
- November 2018, National Association of Canadian Prosecutors Annual Conference.
- September 2018, UN Environment Animal Welfare Conference, Panel Chair for discussion on factory farming.
- July 2018, Oxford Center for Animal Ethics, Oxford University, Carceral Animal Law.
- February 2018, *Beyond Cages*, a workshop hosted by Harvard Law School for my manuscript.
- January 2018, Social Justice and Social Movements, Denver Law Review Symposium.
- July 2017, Oxford Center for Animal Ethics, Oxford University, Fur and Free Speech.
- June 2017, Northwestern University, Carceral Animal Law, Searle Center Roundtable.
- December 2017, Harvard Law School Roundtable on the 50th Anniversary of the Animal Welfare Act, How the Animal Welfare Act Harms Animals.
- November 2017, Animal Law Conference, Animals as Art and the First Amendment.
- February 2017, Faculty Colloquium Speaker, Distinguished Lecture Series, McGeorge Law School, Lies and Free Speech.
- January 2017, Sundance Film Festival, Free Speech and Animal Protection.
- November 2016, The AWA at 50 Workshop, Harvard Law School, Animal Law Program.
- October 2016, Art, Animals and the First Amendment, Animal Law Conference.
- March 2016, Animals, Law, and Religion Conference, Harvard Law School.
- July 2015, Northwestern University, Free Speech and Animal Law, Searle Center Roundtable.
- July 2015, Litigating Ag-Gag Cases, Arizona State Bar Convention.

- July 2015, Invited Speaker for National Federal Habeas Training and CLE.
- March 2015, *Ag Gag 2.0*, Seattle University Law Review Symposium.
- January 2015, *Killing for Your Dog*, AALS section on Animal Law.
- November 2014, *Killing for Your Dog*, University of Toronto, Critical Analysis of Law.
- October 2014, *Ag Gag Litigation*, Lewis & Clark Law School, Animal Law Conference.
- October 2014, *Right to Counsel*, Faculty of Federal Advocates (Jackson Hole, WY).
- September 2014, *Confined Agricultural Feeding Operations Conference*, Loyola Law School.
- August 2014, *Right to Counsel in Federal Courts*, Faculty of Federal Advocates (Denver).
- May 2014, *Whales in the Courtroom*, University of Denver International Law Panel discussion.
- January 2014, *Defense of Animals*, SMU Dedman School of Law Criminal Law Symposium.
- September 2013, *Fourth Amendment Reasonableness*, University of California, Davis Southwest Criminal Law Conference.
- September 2013, *Ag Gag Laws*, Stanford Law School, Animal law Conference.
- March 2013, *Gideon's Shadow*, Yale Law School conference commemorating the 50th Anniversary of *Gideon v. Wainwright*.
- September 2012, Delivered prepared comments on another professor's Fourth Amendment article, Southwest Criminal Law Conference, University of Nevada, Las Vegas.
- March 2012, *Right to Counsel Without Remedy*, Texas Tech. Law School, Annual Criminal Law Symposium.
- March 2012, *The Ring-Cycle*, Arizona State University Symposium.
- October 2011, *Upward Flowing Precedent: Pluralities as Precedent without Precedential Value*, Faculty Colloquium Phoenix School of Law.
- October 2011, *Plurality Decisions and the Constitution*, Presented to a conference of Arizona Judges and Attorneys.
- September 2011, *Challenging Habeas Processes Rather than Results*, Southwest Criminal Law Conference, University of California Irvine.

- April 2011, Moderator, Law and Neuroscience Conference hosted by the University of Denver Law Review.
 - March 2011, *Remedying Pretrial Ineffective Assistance of Counsel*, informal work in progress, University of Denver Sturm College of Law.
 - September 2010, *The Slow Procedural Death of the Fourth Amendment*, Rocky Mountain Junior Scholars Forum, University of Utah.
 - September 2010, Constitution Day Presentation hosted at the Korbel School of International Studies.
 - October 2009, *Don't Forget Due Process: The Path Not (yet) Taken in §2254 Adjudications*, Junior Federal Courts Conference, Michigan State University.
 - September, 2009, *The Ring Cycle: What Do We Know About Juries, Weighing and Death?* Southwest Criminal Law Conference University of Arizona. (presented with Sam Kamin).
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Court Admissions

- California
- Colorado
- Northern District of California
- District of Arizona
- Ninth Circuit Court of Appeals
- Sixth Circuit Court of Appeals
- Tenth Circuit Court of Appeals
- U.S. Supreme Court

Honors and Awards

Named by a proclamation of Governor Jared Polis, Colorado, to serve as an inaugural member of the People for Animal Welfare Committee (PAW). (2019)

President, Animal Law Section of the Association of American Law Schools (AALS) (2018)

Justice for Animals Award (*People for the Ethical Treatment of Animals*) (2018)

Appointed as Reporter for the U.S. Court of Appeals for the Tenth Circuit's criminal jury instruction committee (2017)

Vermont Law School, Distinguished Scholar in Residence (Summer 2016)

Gideon Award (*Colorado Criminal Defense Bar*) (2014)

Awarded Research Professorship (2012-13)

AALS Teacher of the Year (2011)

Outstanding Professor (2010)

Mentorship Award (2010)

Additional Legal Experience & Other Community Engagement

Litigation

Served as the attorney of record or primary lawyer in more than a dozen cases since joining the legal academy. The cases have ranged from trial court proceedings, to federal appellate briefing and arguments, to amicus briefs.

Expert Witness and Consulting

Retained in both criminal and civil cases, including as a testifying expert.

Animal Legal Defense Fund

Of Counsel (2012- 2018).

Luvin Arms Animal Sanctuary, Board of Directors

Erie, Colorado (2020 - present).

Angel Covers, Board of Directors

Denver, Colorado non-profit focused on supporting children living in poverty. (2010-2013).

Emergency Medical Technician (EMT), Wilderness-EMT (W-EMT).